

立法會
Legislative Council

LC Paper No. LS52/06-07

**Paper for the House Committee Meeting
on 13 April 2007**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 23 March 2007**

Date of tabling in LegCo : 28 March 2007

Amendment to be made by : 25 April 2007 (or 16 May 2007 if extended by resolution)

PART I SEWAGE SERVICES

Sewage Services Ordinance (Cap. 463)

Sewage Services (Sewage Charge) (Amendment) Regulation 2007 (L.N. 45)

Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2007 (L.N. 46)

The Sewage Services (Sewage Charge) (Amendment) Regulation 2007 increases the rate of sewage charge by yearly phases from \$1.20 to \$2.92 per cubic metre of water supplied (other than water supplied specifically for flushing purposes) over a period of ten years starting from 1 July 2007. The Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2007 extends the period during which a re-assessed trade effluent surcharge rate is effective from one year to two years.

2. The two Regulations will come into operation on 1 July 2007.

Technical Memorandum on Procedures and Methods for Sampling and Analysis of Trade Effluents (S.S. No. 5 to Gazette No. 12/2007)

3. The Technical Memorandum on Procedures and Methods for Sampling and Analysis of Trade Effluents (“Technical Memorandum”) sets out the procedures and methods for obtaining samples and testing of the samples, for the approval of laboratories, for the presentation of results, and for any other matters applicable to analysis of trade effluents. It reduces the sampling requirement for establishments with daily discharge of less than 50 kg Chemical Oxygen Demand from three days to two days with effect from 1 July 2007. It supersedes the one issued by the then Secretary for Works on 27 February 1995.

4. According to section 13(3) of the Sewage Services Ordinance (Cap. 463) ("the Ordinance"), where a technical memorandum has been laid on the table of the Legislative Council, the Legislative Council may, by resolution passed at a sitting of the Legislative Council held before the expiration of a period of 28 days after the sitting at which it was so laid, provide that the technical memorandum shall be amended in any manner consistent with the section. Section 13(5)(a) of the Ordinance provides that before the expiration of the 28 days' period, the Legislative Council may by resolution extend that period to the first sitting of the Legislative Council held not earlier than the twenty-first day after the day of its expiration.

5. Section 13(7) of the Ordinance provides that the Technical Memorandum shall come into operation upon expiration of the above amendment period or period as extended if the Legislative Council does not pass a resolution amending the technical memorandum. In the case where the Legislative Council passes a resolution amending the Technical Memorandum, it shall come into operation upon the expiration of the day next preceding the day of the publication in the Gazette of such resolution.

6. Members may refer to the LegCo Brief (File Ref.: EP(CR) 9/35/16) issued by the Environmental Protection Department dated 21 March 2007 for background information.

7. The Panel on Environmental Affairs was briefed on the proposals at its meetings on 5 January and 22 January 2007. A total of 11 deputations offered views on the proposals. The Chairman of the Panel advised the Administration to take into account the views expressed by Members and the deputations. According to the Administration, no amendment to the proposals has been made so far.

8. According to the LegCo Brief, the Advisory Council on the Environment was also consulted on 12 February 2007 and the proposals were supported.

9. The Legal Service Division is continuing the scrutiny of the Technical Memorandum and is seeking clarification from the Administration in respect of the Chinese text. A further report will be made if necessary.

PART II ELECTORAL AFFAIRS

Electoral Affairs Commission Ordinance (Cap. 541) Particulars Relating to Candidates on Ballot Papers (Legislative Council) (Amendment) Regulation 2007 (L.N. 47)

10. The Amendment Regulation was made by the Electoral Affairs Commission to extend to District Council elections the statutory arrangements to allow candidates to have certain particulars printed on ballot papers, i.e. the names, the abbreviations of the names and the emblems of prescribed bodies, the personal emblems of candidates and their photographs and the words "Independent Candidate" or "Non-affiliated Candidate".

11. The existing arrangements, as set out in the principal regulation, have only been applied to Legislative Council elections since 2004. According to the LegCo Brief REO 14/321 issued by the Registration and Electoral Office in March 2007, they have been well received by political parties, candidates and electors alike.

12. The Amendment Regulation primarily adapts the existing provisions so that they apply to both LegCo elections and District Council elections, whether general elections or by-elections. The title to the principal regulation will also be changed to reflect the expansion of its coverage. The Amendment Regulation does not otherwise seek to make any changes to the scope and details of the existing arrangements, e.g. registration and de-registration of names, emblems etc. and application procedure.

13. In order to cater for the 2007 District Council ordinary elections, transitional provisions will be made to extend the period for processing applications and objections for the current annual registration cycle so as to end on 18 June 2007 instead of 15 April 2007.

14. The Amendment Regulation shall come into operation on 18 May 2007 with the exception of sections 4, 5 and 6, which contain amendments that apply to a District Council constituency candidate nearer the election or affect exclusively LegCo elections. The latter sections will commence on 1 September 2007.

15. The Panel on Constitutional Affairs was briefed on the proposed extension of the existing statutory arrangements to District Council elections at its meeting on 18 December 2006. Apart from seeking clarification on certain aspects of the arrangements, Members did not raise any queries.

16. The drafting of the Amendment Regulation presents no difficulties.

PART III ROAD TRAFFIC

Road Traffic Ordinance (Cap. 374)

Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2007 (L.N. 48)

Road Traffic (Driving Licences) (Amendment) Regulation 2007 (L.N. 49)

Road Traffic (Disabled Person's Parking Permit – Simplification of Application and Renewal Procedure) Regulation 2007 (L.N. 50)

Road Traffic (Public Service Vehicles) (Amendment) Regulation 2007 (L.N. 51)

Road Traffic (Registration and Licensing of Vehicles) (Amendment) Regulation 2007 (L.N. 52)

17. Generally speaking, the above five items of subsidiary legislation amend existing provisions by:-

- (a) removing the requirement that the applicant should produce certain licences in applying for the issue and renewal of some licences and permits;
- (b) removing the requirement that the applicant should produce a driving licence and vehicle registration document in applying for a disabled person's parking permit;
- (c) removing the restriction that seven types of permit/licence issued by the Transport Department can only take effect from the date of issue;
- (d) removing obsolete references to two international conventions that are no longer applicable to Hong Kong;
- (e) rectifying an anomaly regarding references to change of address specified in driving licences and vehicle registration documents; and
- (f) empowering the Commissioner for Transport to require a person who has given a notification of change of particulars to produce proof of the change.

18. In particular, Members may wish to note that offences are created under the Road Traffic (Driving Licences) (Amendment) Regulation 2007 (L.N. 49) and the Road Traffic (Registration and Licensing of Vehicles) (Amendment) Regulation 2007 (L.N. 52). Regulation 6(2) of L.N. 49 requires a licence holder to return his existing driving licence and driving instructor's licence (if applicable) for variation when there is a change in his name or identity document. Regulation 6(3) of L.N. 49 also empowers the Commissioner for Transport to require a person who has given to the Commissioner a notification of change of particulars to produce proof of the change. Any person who without reasonable excuse fails to comply with the above-mentioned requirements commits an offence and is liable to a fine of \$2,000.

19. As to the Road Traffic (Registration and Licensing of Vehicles) (Amendment) Regulation 2007 (L.N. 52), under existing provisions (Regulation 18(1) of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) and Regulation 19(1) and (4) of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E)), the requirement to report any change of name, address and identity document only applies to holders of driving licences, driving instructors' licences, vehicle registration documents and personalized registration marks. Regulation 5 of L.N. 52 extends this requirement to holders of international circulation permits. Regulation 5 of L.N. 52 also empowers the Commissioner for Transport to require a person who has given to the Commissioner a notification of change of particulars to produce proof of the change. Any person who without reasonable excuse fails to comply with the above-mentioned requirements commits an offence and is liable to a fine of \$2,000.

20. The above five items of subsidiary legislation will come into operation on 19 May 2007.

21. Members may refer to the LegCo Brief (File Ref.: ETWB(T)1/12/39) issued by the Environment, Transport and Works Bureau dated 22 March 2007 for background information.
22. The Panel on Transport noted the information paper provided by the Administration on the proposals at its meeting on 2 March 2007.
23. No difficulties have been identified in respect of the legal or drafting aspects of the above five items of subsidiary legislation.

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