

立法會
Legislative Council

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Tel : 2869 9205

Date : 27 June 2008

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 2 July 2008

**Proposed resolution under section 34(2) of the
Interpretation and General Clauses Ordinance**

I forward for Members' consideration a proposed resolution which the Secretary for the Environment will move at the Council meeting of 2 July 2008 under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The draft speech, in both English and Chinese versions, which the Secretary for the Environment will deliver when moving the proposed resolution, is also attached.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

INTERPRETATION AND GENERAL CLAUSES
ORDINANCE

RESOLUTION

**SEWAGE SERVICES (TRADE EFFLUENT
SURCHARGE) (AMENDMENT) REGULATION 2008**

(Under section 34(2) of the Interpretation and General Clauses
Ordinance (Cap. 1))

RESOLVED that the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008, published in the Gazette as Legal Notice No. 106 of 2008 and laid on the table of the Legislative Council on 14 May 2008, be amended –

(a) by repealing section 3 and substituting –

“3. Trade effluent surcharge rates

Section 3(1)(a) and (b) is repealed and the following substituted –

“(a) if the billing period for the surcharge begins on a date before 1 August 2008 and ends on a date between 1 August 2008 and 31 July 2009 (both days inclusive), at the rate calculated in accordance with the formula specified in Part I of Schedule 5;

(b) if the billing period for the surcharge begins on a date between 1 August 2008

and 31 July 2009 (both days inclusive) and ends on a date before 1 August 2009, at the rate specified in column 3 of Schedule 1;

(c) if the billing period for the surcharge begins on a date between 1 August 2008 and 31 July 2009 (both days inclusive), and ends on or after 1 August 2009, at the rate calculated in accordance with the formula specified in Part II of Schedule 5; or

(d) if the billing period for the surcharge begins on or after 1 August 2009, at the rate specified in column 4 of Schedule 1.”.”;

(b) by adding –

“3A. Variation of trade effluent surcharge rate

(1) Section 4(2) is amended by repealing “or II” and substituting “, II or III”.

(2) Section 4(3) is amended by repealing “2 years” where it twice appears and substituting “3 years”.

(3) Section 4(4) is amended by repealing “2 years” and substituting “3 years”.”;

(c) in section 4, by adding –

“(1A) Section 8(1) is repealed and the following substituted –

“(1) Where a new trade effluent surcharge rate –

(a) is determined under section 4(2) before 1 August 2008 during a billing period; and

(b) is applicable to the relevant consumer or agent on 1 August 2008,

the new rate shall be in effect for 3 years from the beginning of the billing period. On the expiry of those 3 years the rate provided for in section 3 shall apply subject to the consumer or agent having further tests done under section 4(1) and the Drainage Authority making another determination under section 4.”.”;

(d) in section 4(2), in the new section 8(4), by repealing “on or after 1 August 2009” and substituting “on a date between 1 August 2009 and 31 July 2010 (both days inclusive)”;

(e) in section 4(2), by adding –

“(5) Where a new trade effluent surcharge rate is determined under section 4(2) and the billing period during which the determination is made begins on or after 1 August 2010 –

(a) the reference to Schedule 2 in section 4(2) shall be read as a

reference to Schedule 2 as in force
on 1 August 2008; and

(b) the applicable matrix is the matrix
in Part III of Schedule 4.”;

- (f) in section 5, in the new Schedule 1, within the square
brackets, by adding “& Sch. 5” after “s. 3”;
- (g) in section 5, in the new Schedule 1, in the heading of
column 3, by adding “and ending on a date before 1
August 2009” after “inclusive”;
- (h) by repealing section 8 and substituting –

“8. Schedule 4 substituted

Schedule 4 is repealed and the following
substituted –

“SCHEDULE 4

[ss. 4 & 8]

PART I

TRADE EFFLUENT SURCHARGE RATE MATRIX FOR BILLING PERIOD BEGINNING ON A DATE
BETWEEN 1 AUGUST 2008 AND 31 JULY 2009 (BOTH DAYS INCLUSIVE)

COD _(s) (g/m ³)	COD _(s) (g/m ³)																
	0	100	130	160	200	250	320	400	500	630	790	1000	1260	1580	2000		
2000	\$3.78															2000	
1580	\$2.82	\$2.82	\$2.82	\$2.86	\$3.06	\$3.30	\$3.63	\$4.02								1580	
1260	\$2.08	\$2.08	\$2.08	\$2.13	\$2.32	\$2.56	\$2.90	\$3.29	\$3.77	\$4.39						1260	
1000	\$1.49	\$1.49	\$1.49	\$1.54	\$1.73	\$1.97	\$2.31	\$2.69	\$3.17	\$3.80	\$4.57	\$5.58					1000
790	\$1.01	\$1.01	\$1.01	\$1.06	\$1.25	\$1.49	\$1.83	\$2.21	\$2.69	\$3.32	\$4.09	\$5.10				790	
630	\$0.64	\$0.64	\$0.64	\$0.69	\$0.88	\$1.12	\$1.46	\$1.84	\$2.32	\$2.95	\$3.72	\$4.73	\$5.98			630	
500	\$0.34	\$0.34	\$0.34	\$0.39	\$0.58	\$0.82	\$1.16	\$1.55	\$2.03	\$2.65	\$3.42	\$4.43	\$5.68			500	
400	\$0.11	\$0.11	\$0.11	\$0.16	\$0.36	\$0.60	\$0.93	\$1.32	\$1.80	\$2.42	\$3.19	\$4.20	\$5.45	\$6.99			400
320	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88			320
250	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88			250
200	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88			200
160	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88			160

130	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88	130	
100	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88	100	
0	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88	\$8.90	0
	0	100	130	160	200	250	320	400	500	630	790	1000	1260	1580	2000	
$\text{COD}_{(t-s)} \text{ (g/m}^3\text{)}$																

PART II

**TRADE EFFLUENT SURCHARGE RATE MATRIX FOR BILLING PERIOD BEGINNING ON A DATE
BETWEEN 1 AUGUST 2009 AND 31 JULY 2010 (BOTH DAYS INCLUSIVE)**

$\text{COD}_{(s)}$ (g/m ³)	0	100	130	160	200	250	320	400	500	630	790	1000	1260	1580	2000	
	2000	\$4.13														2000
1580	\$3.08	\$3.08	\$3.08	\$3.12	\$3.34	\$3.60	\$3.96	\$4.39								1580
1260	\$2.27	\$2.27	\$2.27	\$2.33	\$2.53	\$2.80	\$3.17	\$3.59	\$4.12	\$4.79						1260
1000	\$1.63	\$1.63	\$1.63	\$1.68	\$1.89	\$2.15	\$2.52	\$2.94	\$3.46	\$4.15	\$4.99	\$6.09				1000
790	\$1.10	\$1.10	\$1.10	\$1.16	\$1.37	\$1.63	\$2.00	\$2.41	\$2.94	\$3.63	\$4.47	\$5.57				790
630	\$0.70	\$0.70	\$0.70	\$0.75	\$0.96	\$1.22	\$1.59	\$2.01	\$2.53	\$3.22	\$4.06	\$5.17	\$6.53			630
500	\$0.37	\$0.37	\$0.37	\$0.43	\$0.63	\$0.90	\$1.27	\$1.69	\$2.22	\$2.89	\$3.73	\$4.84	\$6.20			500

400	\$0.12	\$0.12	\$0.12	\$0.17	\$0.39	\$0.66	\$1.02	\$1.44	\$1.97	\$2.64	\$3.48	\$4.59	\$5.95	\$7.63	400	
320	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51	320	
250	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51	250	
200	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51	200	
160	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51	160	
130	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51	130	
100	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51	100	
0	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51	\$9.72	0
	0	100	130	160	200	250	320	400	500	630	790	1000	1260	1580	2000	

COD_(t-s) (g/m³)

PART III

TRADE EFFLUENT SURCHARGE RATE MATRIX FOR BILLING PERIOD BEGINNING ON OR AFTER
1 AUGUST 2010

	COD _(s) (g/m ³)															
	0	100	130	160	200	250	320	400	500	630	790	1000	1260	1580	2000	
2000	\$4.51															2000
1580	\$3.36	\$3.36	\$3.36	\$3.41	\$3.65	\$3.94	\$4.33	\$4.79								1580
1260	\$2.48	\$2.48	\$2.48	\$2.54	\$2.77	\$3.05	\$3.46	\$3.92	\$4.50	\$5.23						1260

1000	\$1.78	\$1.78	\$1.78	\$1.84	\$2.06	\$2.35	\$2.75	\$3.21	\$3.78	\$4.53	\$5.45	\$6.65					1000
790	\$1.20	\$1.20	\$1.20	\$1.26	\$1.49	\$1.78	\$2.18	\$2.64	\$3.21	\$3.96	\$4.88	\$6.08					790
630	\$0.76	\$0.76	\$0.76	\$0.82	\$1.05	\$1.34	\$1.74	\$2.19	\$2.77	\$3.52	\$4.44	\$5.64	\$7.13				630
500	\$0.41	\$0.41	\$0.41	\$0.47	\$0.69	\$0.98	\$1.38	\$1.85	\$2.42	\$3.16	\$4.08	\$5.28	\$6.77				500
400	\$0.13	\$0.13	\$0.13	\$0.19	\$0.43	\$0.72	\$1.11	\$1.57	\$2.15	\$2.89	\$3.80	\$5.01	\$6.50	\$8.34			400
320	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20			320
250	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20			250
200	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20			200
160	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20			160
130	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20			130
100	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20			100
0	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20	\$10.61		0
	0	100	130	160	200	250	320	400	500	630	790	1000	1260	1580	2000		

COD_(t-s) (g/m³);

(i) by adding –

“9. Schedule 5 added

The following is added –

“SCHEDULE 5 [s. 3]

PART I

RATES OF SURCHARGE IN RESPECT
OF BILLING PERIOD BEGINNING ON A
DATE BEFORE 1 AUGUST 2008 AND
ENDING ON A DATE BETWEEN 1
AUGUST 2008 AND 31 JULY 2009
(BOTH DAYS INCLUSIVE)

$$\frac{(N1 \times R1) + (N2 \times R2)}{(N1 + N2)}$$

(a) In this formula –

N1: number of days of the relevant
billing period before 1 August
2008;

R1: the rate that is specified in respect of the trade, business or manufacture concerned in column 3 or 4 (as may be appropriate) of Schedule 1 as in force immediately before the commencement of the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008 (L.N. 106 of 2008);

N2: number of days of the relevant billing period after 31 July 2008;

R2: the rate that is specified in respect of the trade, business or manufacture concerned in column 3 of Schedule 1.

(b) In paragraph (a), “relevant billing period” (有關的發單收費期間) means the billing period that begins on a date before 1 August 2008 and ends on a date between 1 August 2008 and 31 July 2009 (both days inclusive).

PART II

RATES OF SURCHARGE IN RESPECT OF BILLING PERIOD BEGINNING ON A DATE BETWEEN 1 AUGUST 2008 AND 31 JULY 2009 (BOTH DAYS INCLUSIVE),

AND ENDING ON OR AFTER 1 AUGUST
2009

$$\frac{(N1 \times R1) + (N2 \times R2)}{(N1 + N2)}$$

- (a) In this formula –
- N1: number of days of the relevant billing period before 1 August 2009;
- R1: the rate that is specified in respect of the trade, business or manufacture concerned in column 3 of Schedule 1;
- N2: number of days of the relevant billing period after 31 July 2009;
- R2: the rate that is specified in respect of the trade, business or manufacture concerned in column 4 of Schedule 1.
- (b) In paragraph (a), “relevant billing period” (有關的發單收費期間) means the billing period that begins on a date between 1 August 2008 and 31 July 2009 (both days inclusive), and ends on or after 1 August 2009.””.

**Speech by the Secretary for the Environment
at the Legislative Council on 2 July 2008 (Wednesday)
Resolution made under Section 34(2) of the Interpretation and General Clauses
Ordinance to amend the Sewage Services (Trade Effluent Surcharge)
(Amendment) Regulation 2008**

Madam President,

I move that the resolution to amend the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008 (the Amendment Regulation) standing in my name on the Agenda be passed.

2. First of all, I would like to thank the Subcommittee under the leadership of the Honourable Audrey EU Yuet-mee for their thorough scrutiny of the Amendment Regulation, as well as their constructive recommendations for the Trade Effluent Surcharge (TES) scheme.

3. The Government completed a survey in late 2007 to collect the latest information on the effluent strengths of the trades under the TES scheme with a view to updating both the chemical oxygen demand (COD) values and the TES rates applicable to the specified trades. Based on the information collected, the Amendment Regulation is introduced to adjust the COD values according to the survey results to uphold the "polluter-pays" principle, which is of paramount importance, and to adjust TES rates based on the policy goal of fully recovering the operating cost.

4. The intention of the TES scheme is to provide economic incentives to trade operators with higher pollution loads to improve their effluent strengths. Under the polluter-pays principle, there is no basis for subjecting taxpayers or sewage charge payers to the additional cost incurred in treating stronger effluents. Against this background, the TES scheme was introduced to cover the additional cost involved. We are glad to note the Subcommittee's reaffirmation of its support for the principle of "polluter-pays", which this Council has requested the Government to implement on many occasions.

5. Madam President, although the effluent strengths of some trades are still unsatisfactory, we are delighted to see that the discharges of 18 trades have shown marked improvement, as compared to those when the Scheme was first introduced. Among them, three trades have been removed from the TES scheme altogether because their effluent strengths are no longer higher than that of average sewage. Therefore, the TES scheme, underpinned by the polluter-pays principle, can indeed provide the appropriate economic incentives to various trade operators to reduce their effluent strengths and to improve their pollution control measures.

6. Madam President, the motion I move today, proposing three amendments to the Amendment Regulation, represents the Government's positive response to the views of the Subcommittee.

7. First of all, during the scrutiny of the Amendment Regulation, the Government has listened to the views of certain trades regarding the application

mechanism for the reassessment of TES rates. We also thank members of the Subcommittee for providing valuable advice on this matter.

8. The purpose of the reassessment mechanism is to encourage operators of various trades to strengthen their pollution control measures, with the objective of relieving the burden on effluent treatment services and reducing operators' expenses on TES payments. The design of the reassessment mechanism is in line with the "polluter-pays" principle.

9. After listening to the views representing mainly the restaurant trade, we understand that individual operators may have held back from applying for reassessment due to concerns over whether the reduction in TES payments during the validity period can offset the laboratory cost for conducting the reassessment. We do not want this to happen. We are also aware that the full implementation of the polluter-pays principle has to be coupled with the provision of effective incentives to operators to improve effluent strengths of sewage discharged.

10. In order to lower the cost associated with an application for reassessment, we extended the validity of a reassessed TES rate from one to two years in 2007. We also amended the relevant Technical Memorandum in that same year to reduce the number of sampling days from three to two for small operators. These measures have reduced the expenses associated with an application for reassessment by two-thirds on a yearly basis.

11. After careful consideration, we accept the view of the Subcommittee and move to extend again the validity period of the reassessed TES rates from the current stipulated two years to an amended three years. At the same time, the TES rates which are in force before the Amendment Regulation comes into effect on 1 August will automatically be extended by one year. We believe it will help reduce the cost of the reassessment and encourage more operators of various trades to on the one hand seek reduction of the TES payments and on the other hand reduce pollution by improving pollution control measures and applying for reassessment.

12. After this amendment, we will continue to communicate with all stakeholders and representatives of various trades through different channels and discuss with them how to make the reassessment more user-friendly to the trades by further streamlining the process.

13. Madam President, the second amendment in the Motion aims to authorise the Drainage Authority to, in the short interim period after the commencement date of the Amendment Regulation, calculate the TES payments on a daily water consumption basis over the billing period which will straddle the commencement date. This amendment is made in response to the wish of members of the Subcommittee that the TES rates be applicable to all trades as soon as possible.

14. Madam President, the third amendment in the motion relates to cases applying for reassessment of the TES rates. According to the Government's present proposal, the reassessed TES rate of an operator after the effective date of the Amendment Regulation would be increased by two phases according to the target of full recovery of the operating cost. In other words, assuming an operator's COD

values remain the same, an application to renew a reassessed TES rate on or after 1 August 2008 would be subject to a higher TES rate for the sake of achieving full recovery of the operating costs.

15. The Administration listened carefully to Members of the Subcommittee who had raised some concerns on this subject during the study of the Amendment Regulation. If Members agree to our proposed amendment in the Motion, we would defer by one year implementing the two-phased increase in relation to cases applying for reassessing TES rate to achieve full cost recovery. This amendment complies with the "polluter-pays" principle and is in line with the financial target of fully recovering the relevant operating costs. At the same time, it gives the operators of all TES trades more time to adapt to the increases in TES rates. During the period, the Government will strengthen our liaison with the trades with a view to assisting them to further reduce the strength of their effluents.

16. Madam President, I believe all Members agree that the protection of our natural environment relies on the active participation of the whole community and that the polluter-pays principle is one of the effective means to mobilise community-wide participation in pollution abatement. We are pleased that during the scrutiny of the Amendment Regulation, members of the Subcommittee constantly reaffirmed their support for the Government's application of the principle in its sewage services and endorsed the Government's policy goal of full recovery of the operating cost. I firmly believe that adhering to these two overriding principles will help further reduce the cost of sewage services, thus lessening the damage to the natural environment.

17. I wish to take this opportunity to reiterate that the objective of introducing the Sewage Services Charging scheme was purely to raise the awareness of the general public and trade operators of the pressure on the sewage services system and our natural environment by discharging sewage. The objective is achieved through a charge based on "polluter-pays" principle. The scheme was not designed to raise the General Revenue. The Government will monitor closely the relationship between revenue from the TES scheme and the overall expenditure incurred by the sewage services. We will review the scheme and rework the TES rates if we find out the TES revenue is structurally exceeding the relevant operating cost. We will also keep in close liaison with the trades.

18. Madam President, with these remarks, I commend the motion to Members.

19. Thank you.