

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2270/07-08  
(These minutes have been seen by  
the Administration)

Ref : CB1/SS/10/07

**Subcommittee on Sewage Services (Trade Effluent Surcharge)  
(Amendment) Regulation 2008**

**Minutes of fourth meeting on  
Thursday, 12 June 2008, at 10:45 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)  
Dr Hon LUI Ming-wah, SBS, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon SIN Chung-kai, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, JP  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon WONG Ting-kwong, BBS

**Public Officers attending** : Mr Albert LAM  
Deputy Director of Environmental Protection  
Environmental Protection Department

Mr CHUI Wing-wah  
Assistant Director of Drainage Services (Sewage Services)  
Drainage Services Department

Ms Grace LEUNG  
Senior Government Counsel  
Department of Justice

Mr Elvis AU  
Assistant Director of Environmental Protection (Water  
Policy)  
Environmental Protection Department

**Clerk in attendance :** Ms Debbie YAU  
Senior Council Secretary (1)1

**Staff in attendance :** Mr Kelvin LEE  
Assistant Legal Adviser 1

Mr Justin TAM  
Council Secretary (1)3

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Action

**I Confirmation of minutes and matters arising**

(LC Paper No. CB(1)1841/07-08 -- Minutes of the meeting held on  
26 May 2008)

The minutes of the meeting held on 26 May 2008 were confirmed.

**II Meeting with the Administration**

Administration's response to concerns raised at the meetings on 2 and  
3 June 2008

(LC Paper No. CB(1)1761/07-08(01) -- List of follow-up actions arising  
from the discussion on 2 June  
2008 prepared by the Legislative  
Council Secretariat

LC Paper No. CB(1)1820/07-08(01) -- List of follow-up actions arising  
from the discussion on 3 June  
2008 prepared by the Legislative  
Council Secretariat

LC Paper No. CB(1)1820/07-08(02) -- Administration's response to LC  
Paper Nos. CB(1)1761/07-08(01)  
and CB(1)1820/07-08(01)

LC Paper No. CB(1)1890/07-08(01) -- Supplementary note on further  
*(tabled at the meeting and* follow-up action arising from the  
*subsequently issued on* discussion at the meeting on  
*13 June 2008)* 2 and 3 June 2008

Clause-by-clause examination

LC Paper No. CB(1)1608/07-08(02) -- Marked-up copy of Sewage  
Services (Trade Effluent  
Surcharge) (Amendment)  
Regulation 2008 (L.N. 106 of  
2008)

Proposed amendments

LC Paper No. CB(1)1858/07-08(01) -- Draft "Proposed amendment to the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008" prepared by Assistant Legal Adviser)

2. The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

3. To ensure fairness in applying the existing and new Trade Effluent Surcharge (TES) rates to the TES accounts during the transitional period before and after 1 August 2008, the Administration was requested to consider using one of the following ways in calculating TES:

- (a) the volume of water consumption as shown in the water meters of the TES accounts as at 31 July 2008 and afterwards would be recorded so that the existing and new TES rates could be applied respectively for computing TES.
- (b) the volume of water consumption during the billing period would be apportioned into two parts on a pro-rata basis using 31 July 2008 as the cut-off date so that the existing and new TES rates could be applied to the first part ending 31 July 2008 and the second part after that date respectively.
- (c) the rate of TES to be applied would be made according to the date when the water bill was issued, i.e. the existing TES rates would apply to water bills issued on or before 31 July, whereas the new TES rates would apply to water bills issued on or after 1 August 2008.

The same principle should apply to the reassessed TES rates made during the transitional period. The Administration was requested to advise on the way it would use and amend clauses 3 and 4 of the Amendment Regulation accordingly.

4. The Administration was requested to advise whether it had consulted the relevant trades and informed them their new TES rates would be higher than the existing rate, and to provide information on the number of samples collected from the relevant trades during the effluent survey.

5. Members requested the Clerk to provide information on the list of organizations that had been invited by the Panel on Environmental Affairs and the Subcommittee to express views on the TES scheme.

Date of next meeting

6. The Chairman suggested and members agreed that the next meeting of the Subcommittee would be held on 17 June 2008, at 8:00 am.

**III Any other business**

7. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 1  
Legislative Council Secretariat  
25 August 2008

**Proceedings of the fourth meeting of  
the Subcommittee on Sewage Services (Trade Effluent Surcharge)  
(Amendment) Regulation 2008  
on Thursday, 12 June 2008, at 10:45 am  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000110 – 000150	Chairman	(a) Welcoming remarks by the Chairman  (b) Confirmation of minutes of the meeting held on 26 May 2008 (LC Paper No. CB(1)1841/07-08)	
000151 – 000944	Chairman Administration	Briefing by the Administration on its response to members' views expressed at the meetings on 2 June 2008 and 3 June 2008 (LC Paper No. CB(1)1820/07-08(02)) and its supplementary note tabled at the meeting (LC Paper No. CB(1)1890/07-08(01)).  The Administration's advice that on balance and having regard to the views of Members, it agreed to extend the validity period of a reassessed Chemical Oxygen Demand (COD) value/trade effluent surcharge (TES) rate from two years to three years. It would move a motion accordingly.	
000945 – 001310	Chairman Mr Tommy CHEUNG Assistant Legal Adviser (ALA)	In response to Mr Tommy CHEUNG's enquiry about the procedures for the Subcommittee to move an amendment requiring the Administration to refund the reassessment cost to successful applicants, ALA's advice that the President of the Legislative Council would take into account the Administration's comments on the possible impact of the amendment on government revenue before making a ruling. If the object or effect of the amendment which might, in the opinion of the President, dispose of or charge any part of the revenue or other public moneys, the amendment could not be moved at the Council meeting except where the Chief Executive consented in writing to the proposal.	
001311 – 001409	Chairman Administration Ms Emily LAU	<b>Clause-by-clause examination of the Amendment Regulation</b> (LC Paper No. CB(1)1608/07-08(02))  <u>Clause 1 – Commencement</u>  In response to Ms Emily LAU's enquiry, the Administration advised that the Amendment Regulation shall come into operation on 1 August 2008 without having to publish a further commencement notice in the Gazette.	

Time marker	Speaker	Subject(s)	Action required
		<p><u>Clause 2 – Interpretation</u></p> <p>Members did not raise any query.</p>	
001410 – 002713	<p>Chairman Mr Tommy CHEUNG Administration ALA</p>	<p><u>Clause 3 – Trade effluent surcharge rates</u></p> <p><u>Clause 4 – Transitional</u></p> <p>Mr Tommy CHEUNG's consideration that the Administration's proposed way of calculating TES by applying the existing or new TES rate according to the first date of the billing period was unfair and unreasonable to those trades, such as the restaurant trades, whose new TES rates would be reduced with effect from 1 August 2008 (the affected trades). He suggested using 31 July 2008 as the cut-off date in calculating the TES during the transitional period before and after 1 August 2008 when the new TES rates would take effect.</p> <p>The Administration's responses –</p> <p>(a) The proposed way of calculating TES during the transitional period applied to all trades, irrespective of whether their TES rates would be increased or reduced.</p> <p>(b) TES was charged under the water bills issued by the Water Supplies Department (WSD). The length of the billing period for TES depended on the volume of water consumption and was either one-month or four-month. The suggestion proposed by Mr Tommy CHEUNG would necessitate changes to the existing computer programmes and involve extra manpower resources. Nevertheless, the Drainage Services Department (DSD) would study on the feasibility of using 31 July 2008 as the cut-off date.</p>	
002714 – 004553	<p>Chairman Mrs Selina CHOW Mr Tommy CHEUNG Administration ALA Ms Emily LAU Mr WONG Ting-kwong</p>	<p>Mrs Selina CHOW's concern whether it would go against the policy decision of using the new TES rates with effect from 1 August 2008 if operators would have to pay TES at the existing rates for a billing period beginning before but extending to a date after 31 July 2008. As it was unjust to the affected trades, in particular if the overcharged period could last for four months and involve substantial sum, she requested the Administration to refund the overcharged amount to the operators of the affected trades if it would not be feasible to use 31 July 2008 as the cut-off date.</p> <p>Mr Tommy CHEUNG's suggestion that the refund</p>	

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		<p>could be made by offsetting the TES payable in the next water bills. Supporting his suggestion, Mr WONG Ting-kwong's view that the Government should avoid overcharging the operators, in particular the restaurant operators who had borne almost 90% of all TES.</p> <p>Ms Emily LAU's agreement to use 31 July 2008 as the cut-off date and refund the overcharged TES payment to operators in a similar way as the arrangement under tax rebate. If necessary, the Amendment Regulation should be amended.</p> <p>The Administration's agreement to look into the matter and follow up.</p>	
004554 – 010109	Chairman Mrs Selina CHOW Mr Tommy CHEUNG	<p>The Chairman's summary of members' suggestions for the Administration to consider using one of the following ways in calculating TES during the transitional period –</p> <p>(a) The volume of water consumption as shown in the water meters of the TES accounts as at 31 July 2008 and afterwards would be recorded so that the existing and new TES rates could be applied respectively for computing TES;</p> <p>(b) The volume of water consumption during the billing period would be apportioned into two parts on a pro-rata basis using 31 July 2008 as the cut-off date so that the existing and new TES rates could be applied to the first part ending 31 July 2008 and the second part after that date respectively; or</p> <p>(c) The rate of TES to be applied would be made according to the date when the water bill was issued, i.e. the existing TES rates would apply to water bills issued on or before 31 July 2008 whereas the new TES rates would apply to water bills issued on or after 1 August 2008.</p> <p>If necessary, clauses 3 and 4 should be amended accordingly.</p> <p>The Administration's advice that it would consider the proposed arrangements and revert.</p>	The Administration to provide information as requested in paragraph 3 of the minutes.
010110 – 011157	Chairman Administration Mr Tommy CHEUNG Ms Emily LAU	<p><u>Clause 5 – proposed new Schedule 1</u></p> <p>Mr Tommy CHEUNG's concern about the significant increase in the TES rates for certain trades and sought information on the number of samples taken for calculating their new TES rates,</p>	

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		<p>and whether the relevant trades had adequately been consulted.</p> <p>The Administration's response that the TES rates were determined according to the mean COD values worked out from the effluent samples obtained during the effluent survey. Before embarking on the survey, the Administration had informed representatives of the trades that a survey would be conducted. Operators of different sizes were randomly selected from the trades for collecting samples of effluents. During the survey, individual operators of the TES trades were approached and consulted. The entire exercise involved over 1 100 sampling events. The Administration considered that the methodology of the survey was scientifically sound and reliable, and the average strength of the effluents was representative of the general quality of effluents discharged by the trades.</p>	
011158 – 011759	Chairman Ms Emily LAU Administration Mr WONG Ting-kwong	<p>Ms Emily LAU's concern about the substantial increase in the TES rate for the "distilling, rectifying and blending spirits" trade from \$0.11/m<sup>3</sup> to \$4.13/m<sup>3</sup> and whether the Administration had duly informed the relevant trade organization.</p> <p>The Administration's responses –</p> <p>(a) The results of the survey revealed that the mean COD values of certain trades had increased substantially. Therefore, there was a significant increase in the TES rates for them.</p> <p>(b) For the vast majority of the 8% of TES accounts which faced an increase in TSE rates, the annual increment would be less than \$200 per month.</p> <p>(c) Although the Administration had not informed all trades about the outcome of the survey on the resultant TES rates, it had notified some of them. The Administration would arrange workshops or seminars for the TES trades on the pollution control measures.</p>	
011800 – 012600	Chairman Mr Tommy CHEUNG Administration	<p><u>Clause 6 – proposed Schedule 2</u></p> <p>Mr Tommy CHEUNG questioned the justification for raising the TES rates for the trade of "bakery products" as their relevant COD<sub>total</sub> and COD<sub>settled</sub> values had been decreased from 2 500 grammes per cubic metres (g/m<sup>3</sup>) and 1 548 g/m<sup>3</sup> to 2 000 g/m<sup>3</sup> and 1 506 g/m<sup>3</sup> respectively. As the TES rates</p>	



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		<p>would be increased from \$3.29/m<sup>3</sup> to \$3.59/m<sup>3</sup> in August 2008 and then to \$3.92/m<sup>3</sup> in August 2009, the increase in TES for large bakery operators would very likely exceed \$200 per month.</p> <p>The Administration's responses –</p> <p>(a) The Administration's clarification that the actual COD<sub>total</sub> value for "bakery products" as shown in the result of the effluent survey was 2 614 g/m<sup>3</sup> (Annex B to EP(CR)9/35/16). However, having regard that trades should not be discharging effluent stronger than the level permitted under the Water Pollution Control Ordinance (Cap. 358), the generic COD value for the trade was capped at 2 000 g/m<sup>3</sup> for the purpose of calculating applicable TES rates.</p> <p>(b) The policy goal for TES scheme was to achieve full recovery of the attributable operating cost by 2009-2010 in accordance with polluter-pays principle. Therefore, it was possible that there was an increase in the TES rate for those trades which had only made slight improvement in effluent quality.</p>	
012601 – 013709	<p>Chairman Administration Mr Tommy CHEUNG Mr WONG Ting-kwong Mrs Selina CHOW</p>	<p>Mr Tommy CHEUNG's concern that the Administration's earlier clarification was not set out in the new Schedules 1 and 2. Besides, COD values had all along been used as a major factor for computing TES rates. He was unconvinced that full cost recovery was now used as a factor for justifying increase in TES rates for trades whose COD values had decreased. His view that the Administration should seek to lower the operating cost.</p> <p>The Administration's responses –</p> <p>(a) The projected TES recovery rate for 2007-2008 was around 84%. With the proposed adjustments in COD values, revised apportionment costs between sewage charge and TES, and phased increases in the TES rates, the Administration projected that the attributable operating cost could be recovered fully after the second increment in 2009-2010. This would be achieved by adjusting upward the TES rates for certain trades the COD values of which had only decreased slightly.</p> <p>(b) For the trade of "bakery products", 127 samples had been taken from some 750 accounts. Only 18 accounts would have an</p>	

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		<p>increase in TES for over \$200 per month whereas for 90% of the 750 accounts, the increase in TES was below \$50 per month.</p>	
<p>013710 – 014254</p>	<p>Chairman Mr Tommy CHEUNG Administration Ms Emily LAU Mrs Selina CHOW</p>	<p>Mr Tommy CHEUNG's intention to move an amendment to freeze the TES rates for the 14 trades the new rates of which would be adjusted upward so as to allow more time for the Administration to consult these trades in the coming few months.</p> <p>The Administration's understanding that apart from the consultation with the trades conducted by the Administration, the Panel on Environmental Affairs (EA Panel) and the Subcommittee had also invited deputations to provide views on the TES scheme.</p> <p>Ms Emily LAU's request for the Clerk to provide information on the list of organizations that had been invited by the EA Panel and the Subcommittee to express views on the subject.</p> <p>Mrs Selina CHOW's request for the Administration to advise whether it had consulted the relevant trades and informed the affected trades that the new TES rates would be higher than the existing rates.</p> <p>Chairman's suggestion for Mr Tommy CHEUNG to consult the affected trades and revert in the next meeting of the Subcommittee. Ms Emily LAU's view that the Administration should also take this opportunity to inform the affected trades that their TES rates would be adjusted upward.</p> <p>In response to Mrs Selina CHOW's further enquiry, the Administration advised that the target of full recovery of the operating cost applied across the board to all TES trades irrespective of the strength of the effluents discharged. Therefore, it was possible that there would be a net increase in the TES rates for a trade if its improvement in effluent quality was small.</p>	<p>The Clerk to provide information as requested in paragraph 5 of the minutes.</p> <p>The Administration to provide information as requested in paragraph 4 of the minutes.</p>
<p>014811 – 015052</p>	<p>Chairman Mr Tommy CHEUNG Ms Emily LAU Miss CHOY So-yuk</p>	<p>Members' agreement that the next meeting would be held on 17 June 2008 at 8:00 am.</p>	
<p>015053 – 020052</p>	<p>Chairman Administration Mr Tommy CHEUNG Ms Emily LAU</p>	<p><u>Clause 7 – Schedule 3</u></p> <p><u>Clause 8 – proposed new Schedule 4</u></p> <p>In reply to Mr Tommy CHEUNG's enquiry, the</p>	

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		Administration's advice that the Drainage Authority would determine a new TES rate for a successful reassessment case using the applicable matrix in Part I or II of Schedule 4 and that the figures in the matrices were adjusted so that the projected TES recovery rate could be raised from around 84% in 2007-2008 to 100% in 2009-2010.	

Council Business Division 1  
Legislative Council Secretariat  
25 August 2008