

For information  
on 17 June 2008

**Legislative Council**

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

**Follow-up actions arising from the discussions  
at the meeting on 12 June 2008**

**Purpose**

At the meeting of the Subcommittee on the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008 on 12 June 2008, Members requested the Administration to consider using one of the three ways, all of which were acceptable to the Sub-committee in calculating the TES rates during the transitional period. Also, Members requested the Administration to advise whether it has consulted the relevant trades and informed them regarding their new TES rates.

2. This paper seeks to provide the information requested as well as other information to address the concerns raised by Members at the meeting on 12 June.

**Date for determining a new TES rate**

3. The TES payable by a user is the product of the applicable TES rate as stipulated by the Sewage Services (Trade Effluent Surcharge) Regulation (Cap. 463B) (Regulation) and the volume of water consumed during a particular billing period, subject to a discharge factor (if applicable). The billing period of a TES user may be one-month or four-month depending on water consumption. A user's water charge, sewage charge and TES are contained in a unified bill.

4. With the coming into effect of the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008 (Amendment Regulation), there will be cases where the billing period of a TES account will straddle the effective date of the Amendment Regulation. The most ideal situation would be for all accounts to be concluded on the date before the effective date of the Amendment Regulation and thenceafter to apply the new chemical oxygen demand (COD) value and TES rates. This is not feasible as it would involve the meter-reading of all TES accounts on the very same day at midnight to determine the volume of water consumed.

5. An alternative approach is to develop a mechanism by which the Drainage Authority may determine what would be the applicable COD value and

TES rate for a particular billing period which straddles the effective date of the Amendment Regulation. The Administration's proposal, which is embodied in the Amendment Regulation, requires the Drainage Authority to apply the COD values and TES rates as in force at the beginning of a billing period of a TES account. The same principle is applied also to cases where the Drainage Authority has to determine a reassessed TES rate as a result of a reassessment procedure.

6. Members at the meeting held on 12 June 2008 requested the Administration to consider whether there would be other ways to determine the applicable COD values and TES rates during the transition period. After careful deliberation, the Administration proposes amending the Amendment Regulation to the effect that the Drainage Authority would, as suggested by Members, determine the apportionment of the volume of water consumption during the billing period on a pro rata basis using 31 July 2008 as a cut-off date so that the existing and new generic TES rates could be applied to the first part ending 31 July 2008 and the second part respectively. As the new TES rates determined under section 4(2), in accordance with section 4(3), would take effect from the beginning of billing periods during which such determinations were made and would be in effect throughout the validity period, the above pro rata method would not be applied.

7. The Administration will move a motion to effect the amendment accordingly.

### **TES Scheme**

8. The policy goal for the TES scheme is to achieve full recovery of the attributable operating costs, in accordance with the polluter-pays principle. The most recent estimate (based on currently prescribed COD values and TES rates) is that we are recovering only about 84% of the operating costs. The current exercise will enable full cost recovery by 2009-10. Such a policy goal has been made clear in the submission to the Legislative Council (LegCo) Environmental Affairs (EA) Panel in March 2008 and in subsequent papers to the LegCo, such as the LegCo Brief.

9. We must emphasise that the revised TES rates are derived from professionally sound trade effluent surveys, reflecting the latest situation with respect to the strengths of the effluents discharged by the TES trades. According to the "polluter-pays" principle, a trade should be made responsible for the additional cost incurred for treating its trade effluent.

10. About 92% of the accounts will enjoy a reduction in TES as a result of our proposal to revise the generic COD values and review the TES rates. In general, the reduction in the monthly bill of these accounts ranges from about 6% to 80%. For instance, the average monthly payment for the "Restaurant" trade, which accounts for three-quarters of all the TES accounts, will be reduced by 19%, or about \$230. For the vast majority of the remaining

8% of the accounts which face an increase in the TES rate, the annual increment would be less than \$200 per month under our proposal. For example, the average monthly bill of the 754 accounts in the "Bakery" trade will be increased by less than \$70.

### **Reassessment of the TES rates**

11. In order to further reduce the cost of applying for a reassessment of the TES rates, the Administration will move a motion to amend the Amendment Regulation to further extend the validity period of a reassessed TES rate by one year, from two to three years. TES accounts whose reassessed TES rates remain valid before the effective date of the Amendment Regulation will be extended for another year automatically.

### **Number of Samples Collected**

12. The number of samples collected during the survey for each trade is given at **Annex A**. The sampling was based on the actual production processes of the trades, the TES accounts, the active establishments and other relevant and practical factors.

### **Consultation with the trades**

13. Members also requested the Administration to provide further information on its consultation with the trades regarding the current exercise.

14. The objective of the trade effluent survey was to ascertain the latest situation with respect to the strengths of the effluents discharged by the TES trades through the conduct of a professionally sound study. The effluent survey was a major exercise which involved approaching members of all 30 trades adopting various production processes, with a view to formulating and implementing an appropriate sampling, collection and analysis methodology. Stringent guidelines were laid down in respect of sample collection and analysis procedures. All sample analysis work was conducted by independent laboratories.

15. For trades which are represented by trade associations, the Environmental Protection Department (EPD) and the Hong Kong Productivity Council (HKPC) approached the trade associations prior to the survey. EPD informed the Association of Restaurant Managers and the Hong Kong Federation of Restaurants and Related Trades before the survey on restaurants' effluent. Letters were sent by HKPC to 88 trade associations explaining the survey objective, collect feedback and views and seek agreement on the sampling methodology. Meetings were also arranged but only five trade associations, or their individual members, were interested to meet with HKPC. Before the actual sampling works, the HKPC contacted all active traders within the 26 trades either by post, fax or telephone call.

16. A list of the trade associations with which the HKPC contacted is at **Annex B**. A list of the trade associations with which the HKPC met is at **Annex C**.

17. For trades which are not represented by trade associations, the EPD and the HKPC conducted the survey according to sound professional practices and stringent guidelines.

18. The entire trade effluent survey of all the 30 TES trades was completed in end 2007. In order to adjust the stipulated COD values and TES rates as soon as practicable, the Administration began preparation work for putting forward legislative amendments to the Regulation immediately after the completion of the survey. We did not as a result consult the TES trades again specifically on the revisions to the stipulated COD values and TES rates. Nonetheless, the proposal has been made public by our consultation with the LegCo Panel on Environmental Affairs in March 2008. We understand that there was an invitation for views made available on the website of the LegCo at that time. The paper submitted to the LegCo EA panel in March 2008 has made clear those trades that will be subject to an increase in TES trades, the extent of the increase and the justifications for the increase. The proposal was thoroughly discussed at the LegCo EA panel meeting held on 18 March 2008 and subsequent to the meeting and as requested by the Panel, we provided further information on the methodology of the survey of effluent strength of the restaurant trade, as well as statistics on the COD values of reassessment cases concerning the restaurant trade. Due process has been followed before the Amendment Regulation was gazetted.

### **Polluter-pays principle and sewage services**

19. LegCo and the community at large accept the application of polluter-pays principle in the provision of sewage services. The proposal must be seen as an integrated package in accordance with the polluter-pays principle. We believe the TES scheme should continue to adhere to the principle strictly in order to provide the necessary incentive for the polluting trades to reduce their pollution to our environment.

### **Draft Motion**

20. The consolidated draft motion is attached at **Annex D**. Please note that the draft motion is still subject to further minor revision by the Law Draftsman.

**Environmental Protection Department**  
**Drainage Services Department**  
**16 June 2008**

## Annex A

### Number of Samples Collected During the Effluent Surveys

	<b>Trades</b>	<b><u>Number of Samples</u></b>
1.	Yarn sizing	4
2.	Washing new garments, excluding laundries	33
3.	Bleaching and dyeing of garments	20
4.	Bleaching and dyeing of knitted fabric	16
5.	Bleaching and dyeing of woven fabric	46
6.	Textile stencilling and printing	8
7.	Knit outerwear	20
8.	Wearing apparel other than knit outerwear	6
9.	Spinning cotton	6 <sup>1</sup>
10.	Laundries	110
11.	Soap and cleaning preparations, perfumes, cosmetics	19
12.	Medicines	48
13.	Paints, varnishes and lacquers	1 <sup>1</sup>
14.	Basic industrial chemicals	16
15.	Tanneries and leather finishing	12
16.	Pulp, paper and paperboard	0 <sup>2</sup>
17.	Soft drinks and carbonated waters industries	20

<sup>1</sup> Samples representative of the typical production processes of those trades were not available.

<sup>2</sup> Since no manufacturer was identified for this trade, no sample was able to be collected.

	<b>Trades</b>	<b><u>Number of Samples</u></b>
18.	Breweries and manufacture of malt liquor	12
19.	Distilling, rectifying and blending spirits	4
20.	Cocoa, chocolate and sugar confectionery	5
21.	Vermicelli, noodles, and similar farinaceous products	77
22.	Bakery products	127
23.	Grain mill products	12
24.	Vegetable oil, peanut oil, peppermint oil and aniseed oil	3
25.	Canning, preserving and processing of fish and crustaceans	42
26.	Canning and preserving fruit and vegetables	18
27.	Dairy products	20
28.	Slaughtering, preparing and preserving meat	64
29.	Soy and other sauces	43
30.	Restaurants	384
	<b>TOTAL</b>	<b>1 196</b>

**List of trade associations contacted by  
the Hong Kong Productivity Council**

1. American Chamber of Commerce in Hong Kong
2. Asian-Pacific Water Council Ltd
3. Association of International Chemical Manufacturers
4. Beverage Manufacturers Association of Hong Kong
5. Chemical and Pharmaceutical Industries Council
6. Chinese General Chamber of Commerce
7. Chinese Manufacturers' Association of Hong Kong
8. Chinese Paper Merchants Association
9. Federation of Hong Kong Cotton Weaver
10. Federation of Hong Kong Garment Manufacturers
11. Federation of Hong Kong Industries
12. Federation of Vegetable Marketing Co-operative Societies Ltd
13. Fresh Milk Marketing Association
14. Green Council
15. Hong Kong and Kowloon Chinese Medicine Merchants Association Ltd
16. Hong Kong and Kowloon Fruit and Vegetable Employees and Employers Guild
17. Hong Kong and Kowloon General Association of Liquor Dealers and Distillers
18. Hong Kong and Kowloon Machine Made Paper Merchants Association Ltd
19. Hong Kong and Kowloon Plastic Products Merchants United Association Ltd
20. Hong Kong and Kowloon Provisions, Wine and Spirits Dealers' Association
21. Hong Kong and Kowloon Salt Merchants' Association
22. Hong Kong and Kowloon Sauce and Preserved Fruit Amalgamated Employers Association
23. Hong Kong and Kowloon Tea Trade Merchants Association Ltd
24. Hong Kong and Kowloon Vermicelli and Noodle Manufacturing Industry Merchants' General Association
25. Hong Kong Apparel Society Ltd
26. Hong Kong Association of Textile Bleachers, Dyers, Printers and Finishers Ltd
27. Hong Kong Association of the Pharmaceutical Industry
28. Hong Kong Beverage Association Ltd
29. Hong Kong Biotechnology Association Ltd
30. Hong Kong Cereals and Oils Traders' Association Ltd
31. Hong Kong Chemical Society
32. Hong Kong Chinese Medicine Merchants Association Ltd
33. Hong Kong Chinese Patent Medicine Manufacturers Association Ltd
34. Hong Kong Chinese Prepared Medicine Traders Association Ltd
35. Hong Kong Chinese Textile Mills Association
36. Hong Kong Coalition of Service Industries
37. Hong Kong Corrugated Paper Manufacturers' Association Ltd
38. Hong Kong Cotton Made-up Goods Manufacturers Association Ltd
39. Hong Kong Cotton Spinners Association
40. Hong Kong Dried Sea Food and Grocery Merchants Association Ltd
41. Hong Kong Dyestuffs Merchants Association Ltd

42. Hong Kong Embroidery Merchants Association Ltd
43. Hong Kong Environment Industry Association
44. Hong Kong Factory Owners Association Ltd
45. Hong Kong Flour Merchants' Association
46. Hong Kong Food Council Ltd
47. Hong Kong Food, Drink and Grocery Association
48. Hong Kong Fresh Fruits Importers Association Ltd
49. Hong Kong Garment Manufacturers Association Ltd
50. Hong Kong General Association of Edible Oil Importers and Exporters Ltd
51. Hong Kong General Chamber of Commerce
52. Hong Kong General Chamber of Pharmacy Ltd
53. Hong Kong General Chamber of Textiles Ltd
54. Hong Kong Hide and Leather Traders' Association Ltd
55. Hong Kong Institution of Textile and Apparel
56. Hong Kong Intimate Apparel Industries' Association
57. Hong Kong Knitwear Exporters and Manufacturers Association
58. Hong Kong Medical and Healthcare Device Manufacturers Association
59. Hong Kong Medicine Dealer Guild
60. Hong Kong Oil Merchants Association Ltd
61. Hong Kong Packaging Institute Ltd
62. Hong Kong Petroleum, Chemicals and Pharmaceutical Materials Merchants Association Ltd
63. Hong Kong Pharmaceutical Manufacturers Association Ltd
64. Hong Kong Piece-Goods Merchants' Association
65. Hong Kong Plastic Industry Council
66. Hong Kong Plastic Material Suppliers Association Ltd
67. Hong Kong Plastics Manufacturers Association Ltd
68. Hong Kong Printers and Dyers Association Ltd
69. Hong Kong Printers Association
70. Hong Kong Printing Investment Association
71. Hong Kong Registered Rice Wholesalers Association Ltd
72. Hong Kong Rice Importers and Exporters Association
73. Hong Kong Rice Suppliers Association Ltd
74. Hong Kong Synthetic Leather and Metal Materials Suppliers Association
75. Hong Kong Weaving Mills Association
76. Hong Kong Woollen and Synthetic Knitting Manufacturers' Association Ltd
77. Hong Kong Yee Yee Tong Chinese Medicine Merchants Association Ltd
78. Industrial Chemical Merchants' Association Ltd
79. International General Chinese Herbalists and Medicine Professionals Association Ltd
80. Kowloon Chamber of Commerce
81. Liquor and Provision Industries Association
82. Modernized Chinese Medicine International Association
83. New Territories General Chamber of Commerce
84. Po Sau Tong Ginseng and Antler Association Hong Kong Ltd
85. Printing and Paper Group
86. Rice Merchants' Association of Hong Kong Ltd
87. South-China Paper Merchants Association Ltd
88. Textile Council of Hong Kong Ltd

**List of trade associations met with  
the Hong Kong Productivity Council**

1. Hong Kong Weaving Mills Association
2. Hong Kong Chinese Medicine Merchants Association Ltd
3. Hong Kong Chinese Prepared Medicine Traders Association Ltd
4. Certain members of Hong Kong Association of Textile Bleachers, Dyers, Printers and Finishers Ltd
5. Certain members of Hong Kong Intimated Apparel Industries' Association

**Draft Motion**

INTERPRETATION AND GENERAL CLAUSES  
ORDINANCE

**RESOLUTION OF THE LEGISLATIVE COUNCIL**

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

Resolution made and passed by the Legislative Council under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) on 2008.

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 or before 31 July 2009, at the rate specified in column 3 of Schedule 1;
- (c) if the billing period for the surcharge begins on a date before 1 August 2009 but not earlier than 1 August 2008, 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(3) is amended by repealing “2 years” where it twice appears and substituting “3 years”.
- (2) 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 the following substituted –
- “(1) Where a new trade effluent surcharge rate –
- (a) was 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) by adding –
- “9. Schedule 5 added**
- The following is added –

## “SCHEDULE 5

### PART I

#### RATES OF SURCHARGE IN RESPECT OF BILLING PERIOD BEGINNING BEFORE 1 AUGUST 2008 AND ENDING

BETWEEN 1 AUGUST 2008 AND 31  
JULY 2009 (BOTH DATES INCLUSIVE)

$$(N1 \times R1) + (N2 \times R2)$$

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$$(N1 + N2)$$

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 of the Sewage Services (Trade Effluent Surcharge) Regulation (Cap. 463 sub. leg. B) as in force immediately before the commencement of the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation (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 relevant trade, business or manufacture in column 3 of Schedule 1.

“relevant billing period”: The billing period of the bill concerned 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  
BEFORE 1 AUGUST 2009 BUT NOT  
EARLIER THAN 1 AUGUST 2008, AND  
ENDING ON OR AFTER 1 AUGUST 2009

$$(N1 \times R1) + (N2 \times R2)$$

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$$(N1 + N2)$$

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.

“relevant billing period”: The billing period of the bill concerned that begins on a date before 1 August 2009 but not earlier than 1 August 2008, and ends on or after 1 August 2009.”.”

Clerk to the Legislative Council

2008

INTERPRETATION AND GENERAL CLAUSES  
ORDINANCE

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**RESOLUTION**

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

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

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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 or before 31 July 2009, at the rate specified in column 3 of Schedule 1;
- (c) if the billing period for the surcharge begins on a date before 1 August 2009 but not earlier than 1 August 2008, 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(3) is amended by repealing “2 years” where it twice appears and substituting “3 years”.

(2) 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 the following substituted –

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

(a) was 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) by adding –

**“9. Schedule 5 added**

The following is added –

## “SCHEDULE 5

## PART I

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

$$(N1 \times R1) + (N2 \times R2)$$


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$$(N1 + N2)$$

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 of the Sewage Services (Trade Effluent Surcharge) Regulation (Cap. 463 sub. leg. B) as in force immediately before the commencement of the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation (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 relevant trade, business or manufacture in column 3 of Schedule 1.
- “relevant billing period”: The billing period of the bill concerned 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 BEFORE 1  
AUGUST 2009 BUT NOT EARLIER THAN  
1 AUGUST 2008, AND ENDING ON OR  
AFTER 1 AUGUST 2009

$$(N1 \times R1) + (N2 \times R2)$$

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$$(N1 + N2)$$

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.

“relevant billing period”: The billing period of the bill concerned that begins on a date before 1 August 2009 but not earlier than 1 August 2008, and ends on or after 1 August 2009.”.