

FACT SHEET

Mechanism for granting ex-gratia allowances to fishermen affected by marine works

1. Introduction

1.1 Fishermen in Hong Kong are not entitled to statutory compensation when marine works such as reclamation, sand dredging and mud disposal projects extinguish their habitual fishing grounds permanently or temporarily as they have no legal rights over the waters where they habitually fish. Recognizing that affected fishermen may suffer a reduction in income and may incur extra expenses in relocating their activities to fishing grounds elsewhere, the Government may grant ex-gratia allowances ("EGAs") to these affected fishermen.

1.2 This fact sheet provides information on the existing mechanism for granting EGAs to fishermen affected by marine works, and issues and concerns about the mechanism.

2. Existing mechanism

2.1 The Government last reviewed the mechanism for granting EGAs to fishermen affected by marine works in 2000. The proposed amendments to the previous arrangements¹ for granting EGAs to affected fishermen were approved by the Finance Committee ("FC") of the Legislative Council on 1 December 2000².

¹ The previous arrangements for granting EGAs to affected fishermen were adopted in 1993. See The Hong Kong Government (1993).

² *Minutes of the 3rd Meeting of the Finance Committee of the Legislative Council* (2000).

2.2 According to the existing mechanism, the Government will set up an inter-departmental working group comprising representatives from the Agriculture, Fisheries and Conservation Department ("AFCD") and other relevant departments, where necessary, to handle the registration of affected fishermen for an EGA exercise, and determine the apportionment of EGAs among the eligible fishermen. To be eligible for EGA payment, the affected fishermen have to meet the eligibility criteria set by the inter-departmental working group, such as possessing an inshore fishing vessel (a fishing vessel not exceeding 15 metres)³ with its homeport, i.e. place at which the fishing vessel is based, being associated with the affected waters.

2.3 A fishermen claims appeal board comprising non-official members will be set up where necessary for processing appeals by the affected fishermen against decisions of the inter-departmental working group.

Formulae for calculating ex-gratia allowances

2.4 Under the existing mechanism, the formulae for calculating EGAs payable to eligible fishermen affected by marine works resulting in a permanent loss and a temporary loss of fishing grounds are as follows:

- (a) permanent loss of fishing grounds (primarily due to reclamation projects) – basing on a notional value of seven years' fish catch in the affected waters⁴; and
- (b) temporary loss of fishing grounds (primarily due to sand dredging or mud disposal projects) – basing on a notional value of three years' fish catch in the affected waters.

³ The Government considers that fishermen with fishing vessels exceeding 15 metres can fish outside Hong Kong waters. As such, these fishermen are not eligible for EGAs unless they can demonstrate that they habitually fish within Hong Kong waters.

⁴ In 2000, the Government introduced the "seven-year" arrangement to grant higher EGAs to fishermen affected by marine works resulting in a permanent loss of fishing grounds as it considered that these marine works had a more deleterious impact on the fishing industry than those which resulted in a temporary loss of fishing grounds only. According to the previous mechanism adopted in 1993, the calculation of EGAs payable to affected fishermen was based on the notional value of three years' fish catch regardless of a permanent or temporary loss of fishing grounds.

2.5 Further EGAs may also be granted to fishermen affected by successive marine works, such as sand dredging or mud disposal projects, at the same location where three years have elapsed since completion of the last marine works⁵.

2.6 The calculation of the notional value of fish catch is based on relevant data obtained from the 1989-1991 Port Survey conducted by AFCD⁶ and adjusted with fish price movement since then. A consultancy study conducted in 1996-1997 indicated that there had been a decline in fish catch due to over-fishing and development works but the impact of each of these two factors could not be quantified or apportioned. As such, the Government has continued to use the 1989-1991 Port Survey data as the basis for calculating EGAs.

3. Issues and Concerns

3.1 When the Government conducted the last review on the mechanism for granting EGAs to fishermen affected by marine works in 2000, stakeholders had raised concern about the adequacy of the multiplier, i.e. the number of years of fish catch, used for calculating EGAs for permanent loss of fishing grounds. Some stakeholders had also suggested abolishing the homeport system for registration of inshore fishing vessels; allowing all fishing vessels, including those longer than 15 metres, to register for EGA payment arising from marine works; and enhancing the transparency of the fishermen claims appeal board set up in connection with EGA registration exercises⁷.

⁵ Under the previous mechanism adopted in 1993, EGAs were granted once only in respect of a specific fishing ground affected by successive marine works.

⁶ AFCD has conducted Port Survey among local fishing vessels to collect updated data on their fisheries production and fishing operations in Hong Kong waters. The latest Port Survey was conducted in 2006.

⁷ Agriculture, Fisheries and Conservation Department and Environment and Food Bureau (2000), and Environment and Food Bureau (2000).

3.2 At the FC meeting on 1 December 2000 when the proposed amendments to the previous arrangements for granting EGAs to fishermen affected by marine works were considered, there was a view that the homeport system for registering inshore fishing vessels for EGA payment was unfair to those vessels of over 15 metres which could only fish within Hong Kong waters for various reasons. The Government was urged to exercise greater flexibility in dealing with these cases. The Government stated that the fishermen claims appeal board could exercise flexibility in dealing with appeal cases from vessels which could not meet the 15-meters criterion. The Government also agreed to consider members' suggestions to enhance the transparency of the procedures of the appeal board.

3.3 At the meeting of the Panel on Development on 29 March 2011, concern was raised about the adequacy of the estimated amount of EGAs to be granted to fishermen affected by a marine works project near the south of the Brothers. The Government was urged to review the existing EGA mechanism. The Government explained that the estimated amount of EGAs to be granted was based on three years' fish catch in the fishing area that would possibly be affected temporarily by the project concerned. The Government also stated that in response to the concern about the level of EGAs granted to fishermen affected by public works projects expressed on previous occasions, the Food and Health Bureau had commenced a review on the subject in collaboration with the relevant bureaux and departments.

Research Division
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Tel: 3919 3636

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