

LEGISLATIVE COUNCIL BRIEF

Dumping at Sea Ordinance
(Chapter 466)

DUMPING AT SEA (AMENDMENT) BILL 2000

INTRODUCTION

A At the meeting of the Executive Council on 18 January 2000, the Council ADVISED and the Chief Executive ORDERED that the Dumping at Sea (Amendment) Bill 2000, at Annex A, should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

General Background

2. The Dumping at Sea Ordinance (Chapter 466) controls the dumping of substances and articles from vessels, aircraft, and marine structures in the sea and under the sea-bed and the related loading operations in accordance with the spirit of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters. The Convention was applicable to Hong Kong before 1997 and has been extended to Hong Kong by the Central Government following the reunification in 1997.

Present Position

3. At present, any person who intends to carry out marine dumping or related loading operations as specified in section 8(1) of the Dumping at Sea Ordinance has to obtain a permit from the Director of Environmental Protection before commencing such operations, unless the operation falls under any of the following categories-

- (a) operations specified in the Dumping at Sea Ordinance (Exemption) Notice 1995 made by the Secretary for Planning, Environment and Lands under section 11 of the Dumping at Sea Ordinance; or
- (b) operations authorized under the Foreshore and Sea-bed (Reclamations) Ordinance as provided for in section 8(2) of the Dumping at Sea Ordinance.

4. The primary objective of the Dumping at Sea Ordinance is, through a permit system, to control dumping activities that deliberately pollute the sea and the sea-bed. Operations that do not require a permit under section 11 of the Ordinance involve the disposal of substances or materials in relation to the normal operation of vessels, aircraft and marine structures or for well-intended purposes, such as the laying of submarine cable, the deployment of dispersants or other materials for treating oil spill or fighting fire, or the carrying out of scientific research. Similarly, since the aim of reclamation works in its conventional sense is to form land from the sea rather than dispose of waste into the sea or on the sea-bed, section 8(2) of the Dumping at Sea Ordinance also exempts reclamation authorized under the Foreshore and Sea-bed (Reclamations) Ordinance (Chapter 127) from the permit requirement.

5. The word “reclamation” is defined in section 2 of the Foreshore and Sea-bed (Reclamations) Ordinance to include “any work over and upon any foreshore and sea-bed”. This includes both land formation works and dredging or dumping works. Indeed a substantial number of reclamation works authorized under the Foreshore and Sea-bed (Reclamations) Ordinance are related to dredging or dumping rather than land formation activities.

6. Notwithstanding the exemption provided for under section 8(2) of the Dumping at Sea Ordinance, it is the current practice for project proponents to apply for permits before initiating dumping operations which have been authorized under the Foreshore and Sea-bed (Reclamations) Ordinance. This practice accords with our original intention that only land formation works should be exempt from the permit requirement. However, we need to amend the Dumping at Sea Ordinance to give legal backup to the existing practice.

The Proposal

7. It is proposed that section 8(2) of the Dumping at Sea Ordinance be repealed so that reclamation authorized under the Foreshore and Sea-bed (Reclamations) Ordinance will no longer be exempt from the permit requirement.

8. Concurrently, an Order will be made by Secretary for the Environment and Food under section 11 of the Dumping at Sea Ordinance to exempt, as far as “reclamation” authorized under Foreshore and Sea-bed (Reclamations) Ordinance is concerned, operations specific to land formation only. We intend to bring into effect the Dumping at Sea (Amendment) Bill 2000 and the proposed exemption order at the same time. The scope of the exemption order is set out at Annex B.

9. On a separate matter, some reclamation works related to the construction of roads, which are genuine land formation work, are ordered under section 17(1)(b) of the Roads (Works, Use and Compensation) Ordinance (Chapter 370). Unlike reclamation works authorized under the Foreshore and Sea-bed (Reclamations) Ordinance, these works are not exempt under the Dumping at Sea Ordinance. We will

include the appropriate types of reclamation works ordered under the Roads (Works, Use and Compensation) Ordinance in the proposed exemption order.

THE BILL

10. Clause 2 of the Bill repeals section 8(2) of the Dumping at Sea Ordinance so that reclamation authorized under the Foreshore and Sea-bed (Reclamations) Ordinance will no longer be exempt from the permit requirement. The existing provisions which are being amended are at Annex C.

C

PUBLIC CONSULTATION

11. We have consulted the Advisory Council on the Environment and the Legislative Council Panel on Environmental Affairs on the proposed amendment on 27 September 1999 and 20 December 1999 respectively. Members of both bodies supported the proposal.

12. It is already the current practice for project proponents to apply for permits before initiating dumping operations which have been authorized under the Foreshore and Sea-bed (Reclamations) Ordinance. As such, no consultation with the trade is necessary. It is expected that the Administration will be responsible for most of the projects which will be affected by the Bill.

BASIC LAW IMPLICATIONS

13. The Department of Justice advises that the Bill does not conflict with those provisions of the Basic Law which carry no human rights implications.

HUMAN RIGHTS IMPLICATIONS

14. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

15. The amendment will not affect the current binding effect of the Dumping at Sea Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

16. At present, Environmental Protection Department already processes and issues permits for dumping operations authorized under the Foreshore and Sea-bed (Reclamations) Ordinance. There are no additional financial and staffing implications arising from the amendment.

ECONOMIC IMPLICATIONS

17. The proposed amendment should have very little cost impact on commercial and industrial activities. The overall impact on the economy is positive as dumping at sea, which incurs external social cost, will be restricted.

ENVIRONMENTAL IMPLICATIONS

18. The proposed amendment requires a person to obtain a valid permit before initiating any dumping operations authorized under the Foreshore and Sea-bed (Reclamations) Ordinance. As a result, the current practice for project proponents to apply for permits before initiating such dumping operations will be supported by legal backing. This will enhance the ability of the Administration to control marine dumping operations so as to protect the quality of marine waters.

LEGISLATIVE TIMETABLE

19. The legislative timetable as approved by the Executive Council is as follows -

Publication in the Gazette	21 January 2000
First Reading and commencement of Second Reading debate	26 January 2000
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

PUBLICITY

20. A press release will be issued on 21 January 2000. A spokesman will be available for answering media enquiries.

ENQUIRIES

21. For any enquiries, please contact Mr Maurice Loo, Assistant Secretary for the Environment and Food (B)3A, at 2848 2833.

Environment and Food Bureau
20 January 2000