

For discussion
on 20 December 1999

Legislative Council Panel on Environmental Affairs

Amendment to the Dumping at Sea Ordinance

Purpose

This paper seeks Members' advice on a proposal to amend the Dumping at Sea Ordinance (DASO), Cap. 466, to specify the types of reclamation which would require a permit under the DASO.

Background

2. The DASO implements the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the London Convention). The Convention has been extended to Hong Kong by the Central Government after the return of sovereignty in 1997. The DASO controls the dumping of substances or articles from vessels, vehicles, aircraft, or marine structures in the sea or under the sea-bed and other related operations.

3. Under section 8(1) of the DASO, any person who intends to carry out marine dumping and/or load vessels, vehicles, aircraft, or marine structures with substances for marine dumping has to obtain a permit from the Director of Environmental Protection (DEP) before commencing the dumping and/or loading operation. Two categories of exemption are provided for-

- (a) operations specified in the Dumping at Sea Ordinance (Exemption) Notice 1995 made by the Secretary for Planning, Environment and Lands (SPEL) under section 11 of the DASO (copy at Annex); or
- b) operations for a reclamation authorised under the Foreshore and Sea-bed (Reclamations) Ordinance (FSRO), Cap. 127, as specified in section 8(2) of the DASO.

4. The primary objective of the DASO is to prevent and control, through a permit system, dumping activities that deliberately pollute the sea and the sea-bed. Operations that do not require a permit under section 11 of the DASO involve the disposal of substances or materials in relation to the normal

operation of vessels, vehicles, aircraft and marine structures or for other 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 sea rather than the disposal of waste into the sea or on the sea-bed, section 8(2) of the DASO also exempts reclamation authorised under the FSRO from the permit requirement.

Problem

5. “Reclamation” as defined under section 2 of the FSRO includes “any work over and upon any foreshore and sea-bed”. This includes both land formation works and dredging/dumping works. Indeed a substantial number of “reclamation” works authorised under the FSRO are related to dumping rather than land formation activities. Since our intention is to exempt only land formation works from the permit requirement, the present section 8(2) of the DASO needs to be amended to reflect this intention.

6. Some reclamation works related to the construction of roads are ordered under subsection 17(1)(b) of the Roads (Works, Use and Compensation) Ordinance (RWUCO), Cap. 370. Unlike reclamation works authorized under the FSRO, they are at present not exempted under the DASO. Opportunity is taken to include the appropriate types of reclamation works ordered under the RWUCO as exempted operations under the DASO.

Proposal

7. We propose repealing section 8(2) of the DASO such that operations authorised under the Foreshore and Sea-bed (Reclamations) Ordinance (FSRO) would no longer be exempted from the requirement of permits under DASO. Concurrently, an Order would be made by SPEL under section 11 of the DASO to exempt operations authorised under FSRO or ordered under RWUCO which are related to land formation and road works only.

Legislative Timetable

8. Our intention is to introduce the Amendment Bill into the Legislative Council in January 2000. Once the legislative amendment is enacted, an Order will be made by SPEL under section 11 of the DASO to

specify the types of “reclamation” works authorised under the FSRO or RWUCO that would be exempted under the DASO. The Amendment Bill and the Order will come into effect at the same time.

Planning, Environment and Lands Bureau
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