

# **立法會**

## ***Legislative Council***

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### **Paper for the House Committee meeting on 2 May 2003**

#### **Report of the Bills Committee on Foreshore, Sea-bed and Roads (Amendment) Bill 2003**

#### **Purpose**

This paper reports on the progress of work of the Bills Committee on Foreshore, Sea-bed and Roads (Amendment) Bill 2003 and the conclusion of the Bills Committee that the consideration of the Bill should be held in abeyance.

#### **Background**

2. The Foreshore and Sea-bed (Reclamations) Ordinance (FS(R)O) (Cap. 127) provides that where a reclamation is proposed in relation to any foreshore and sea-bed, any person who considers that he has an interest, right or easement in or over the foreshore and sea-bed described in the notice published in the Gazette may object to the proposed reclamation within two months. Similarly, the Roads (Works, Use and Compensation) Ordinance (R(WUC)O) (Cap. 370) provides that any person affected by the proposed works or the use in relation to a road scheme may lodge an objection within 60 days after the notice covering the road scheme has been published in the Gazette.

3. Before any objection is submitted to the Chief Executive in Council, the Government would try to resolve the objection through discussion with the objector concerned. Both FS(R)O and R(WUC)O provide a statutory time limit of nine months for resolving objections and that the Chief Executive (CE) may allow a further period of six months for resolving objections after the expiration of the nine-month period. In other words, it may take a maximum of 11 to 17 months to complete the process of the lodging and resolving of objections.

4. Following a review in 2001 aiming to expedite the delivery of public works project, the Administration reduced the pre-construction lead time for an average medium-sized civil engineering project from six years or more to less than four years. To further expedite the delivery of public works project, the Administration consulted the Legislative Council (LegCo) Panel on Planning, Lands and Works (PLW Panel) in May 2002 on the following proposed amendments to FS(R)O and R(WUC)O:

- (a) To shorten the period for the lodging of objections to any proposed reclamations, plans or schemes under FS(R)O and R(WUC)O from two months/60 days to 30 days;
- (b) To shorten the objection resolution period from nine months to four months; and
- (c) To shorten the extension period for resolving objections as may be granted by CE from six months to three months.

5. The above legislative proposals met with strong opposition from the Members present at the PLW Panel meeting on 16 May 2002. Members considered that the shortened periods would not be adequate for the public to lodge objections and for the Government to resolve the objections. Some Members requested the Administration to withdraw the proposals.

6. The PLW Panel was consulted on the same set of legislative proposals again on 6 December 2002, at which the Administration put forward further justifications for the legislative proposals and a number of proposed administrative measures to be implemented in conjunction with the legislative proposals to enhance public consultation and notification of projects. Some Members maintained their objections to the proposal to shorten the period for the lodging of objections.

### **The Bill**

7. On 19 February 2003, the Administration introduced the Foreshore, Sea-bed and Roads (Amendment) Bill 2003 into LegCo. The purpose of the Bill is to amend FS(R)O and R(WUC)O in order to shorten the period for the lodging of objections, the objection resolution period, and the extension period for resolving objections as may be granted by CE, as mentioned in paragraph 4(a), (b) and (c) above, and to provide for transitional provisions.

### **The Bills Committee**

8. The House Committee agreed at its meeting on 21 February 2003 to form a Bills Committee to study the Bill. Hon Mrs Selina CHOW LIANG Shuk-yee was elected Chairman of the Bills Committee. The membership list of the Bills Committee is in **Appendix I**.

## **Progress of work of the Bills Committee**

9. The Bills Committee has held two meetings. At its first meeting on 1 April 2003, the Bills Committee shared the PLW Panel's concern that the proposed 30-day period would not be adequate for the public to lodge objections. The Bills Committee noted that apart from the PLW Panel, other relevant parties which were consulted on the legislative proposals by the Administration, namely, the Advisory Council on the Environment and some green groups, had also indicated objection to the proposal to shorten the objection period to 30 days. The Bills Committee queried why the Administration still maintained this part of the legislative proposal in the proposed Bill despite general opposition to the proposal.

10. The Bills Committee was advised that under the existing public consultation procedures, the works departments were required to present their proposed public works schemes to the relevant District Councils and other concerned parties before finalizing the project schemes for gazettal. The Administration was prepared to introduce further measures to enhance the public consultation process before and during the gazettal of projects. With the enhanced public consultation process, the Administration considered that the public would have a good prior knowledge of the details of the projects and would be able to lodge objections, if any, within one month of the gazettal. The Bills Committee however was not convinced. Members pointed out to the Administration that the public needed time to study the projects in detail before formally lodging their objections. Members were concerned that the proposal to shorten the objection period to 30 days would affect the right of the public to lodge objections.

11. As regards the Administration's proposals to shorten the objection resolution period to four months and the extension period as might be granted by CE to three months, the Bills Committee noted the Administration's view that as these legislative proposals would allow up to seven months for resolving objections, there should be adequate time for resolving a majority of the objections. The Bills Committee pointed out that the extension period was provided to cater for special circumstances. It was therefore not appropriate to assume that the extension period would apply to each individual case.

12. To facilitate the Bills Committee's further consideration of the legislative proposals, the Administration was requested to provide the relevant statistics on the lodging and resolving of objections to the public works projects gazetted in the past five years under FS(R)O, R(WUC)O, and the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg. AL) (WPC(S)R)<sup>(Note)</sup>, including the number of objections received during the first and second months of the objection period, the number of objections resolved at different stages of the objection resolution period, the number of objections which CE's approval had been sought to extend the objection resolution period. The Bills Committee also decided to conduct public consultation on the Bill and receive deputations at a meeting scheduled for 2 May 2003.

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<sup>(Note)</sup>

By virtue of section 26 of WPC(S)R, the amendments to R(WUC)O will apply automatically to sewerage schemes gazetted under WPC(S)R.

13. On 25 April 2003, the Administration advised the Bills Committee in writing that its current thinking was to concentrate on the speeding up of the administrative procedures in handling public objections and expediting other pre-construction activities, and not to proceed with the legislative amendments in the near future. The Administration proposed that further consideration of the Bill by the Bills Committee be suspended.

14. The Bills Committee held an urgent meeting on 28 April 2003 to discuss the Administration's latest proposal. The Administration explained that having regard to the views expressed by the Bills Committee and interested parties on the legislative proposals, in particular the proposal to shorten the objection period to one month, the Administration was prepared to reconsider the way forward on the Bill. In this connection, the Bills Committee was advised that since the introduction of some internal administrative measures for expediting resolution of objections under statutory gazettals in May 2002, the Administration had received quite a large number of objections to a number of major public works projects, including more than 1 000 objections to the Route 10 project. Some of the objections to these projects had needed more time to resolve and the effectiveness of the administrative measures had yet to be assessed. In the Administration's view, the proposed arrangement for the Bills Committee to hold in abeyance the consideration of the Bill would enable the Administration to fully assess the effectiveness of the administrative measures in expediting the delivery of public works projects and to reconsider its legislative proposals.

### **Conclusion of the Bills Committee**

15. In the light of the above, the Bills Committee accepted the Administration's proposal to hold in abeyance the consideration of the Bill and decided to report back to the House Committee.

### **Follow-up actions to be taken by the Administration**

16. At the request of the Bills Committee, the Administration agreed to take the follow-up actions, as follows:

- (a) To report to the PLW Panel in due course on the progress and outcome of its assessment on the effectiveness of the administrative measures and the timetable for reverting back to the Bills Committee, and to consult the PLW Panel on any proposed changes to the content of the Bill; and
- (b) To ensure, when reviewing the content of the Bill, that the legislative proposals are consistent with the relevant provisions in other ordinances, such as the Town Planning Ordinance (Cap. 131).

### **Information for future reference**

17. So far, the Bills Committee has received information provided by the Administration on the statistics of the objections received and dealt with in the past five years as well as written submissions from four organizations/individuals listed in **Appendix II**. Although there is no opportunity for the Bills Committee to study the information and submissions in detail, a summary of the relevant information is provided below for future reference:

- (a) All the four organizations/individuals submitted views to the Bills Committee are against the Administration's proposal to shorten the objection period to 30 days. They consider the proposed 30-day period too short for the public to fully understand the details of a public works project, to research the relevant information, to deliberate on alternative project plans and to make a decision on whether or not to lodge objections.
- (b) One of the organizations submitted views to the Bills Committee is also against the Administration's proposal to shorten the objection resolution period.
- (c) Of the 2 406 objections to the public works projects gazetted and authorized under FS(R)O, R(WUC)O, and WPC(S)R in the past five years-
  - 2 304 (96%) were received by the Administration during the second month of the objection period;
  - 63 objections (2.6%) were resolved within four months;
  - 82 objections (3.4%) were resolved within four to seven months;
  - 31 objections (1.3%) were resolved within seven to nine months;
  - 15 objections (0.6%) were resolved within the extended period approved by CE;
  - 2 215 objections (92%) could not be resolved and were subsequently overruled by the Chief Executive in Council.

### **Advice sought**

18. Members are invited to note the conclusion of the Bills Committee in paragraph 15 above.

《 2003年前濱、海床及道路（修訂）條例草案 》委員會  
Bills Committee on  
Foreshore, Sea-bed and Roads (Amendment) Bill 2003

委員名單  
Membership List

主席 Chairman	周梁淑怡議員, GBS, JP	Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
委員 Members	黃宏發議員, JP	Hon Andrew WONG Wang-fat, JP
	劉慧卿議員, JP	Hon Emily LAU Wai-hing, JP
	羅致光議員, JP	Dr Hon LAW Chi-kwong, JP
	陳偉業議員	Hon Albert CHAN Wai-yip
	葉國謙議員, JP	Hon IP Kwok-him, JP
	(總數：6名議員) (Total : 6 Members)	
秘書 Clerk	陳美卿小姐	Miss Salumi CHAN
法律顧問 Legal Adviser	黎順和小姐	Miss Monna LAI
日期 Date	2003年4月1日 1 April 2003	

**Bills Committee on  
Foreshore, Sea-bed and Roads (Amendment) Bill 2003**

**List of organizations/individuals submitted views on the Bill**  
(Position as at 29 April 2003)

Organizations

1. The World Wide Fund for Nature Hong Kong
2. Advisory Council on the Environment
3. Kadoorie Farm & Botanic Garden Corporation

Individuals

1. David and Bernadette WALKER