

立法會
Legislative Council

LC Paper No. LS87/05-06

**Paper for the House Committee Meeting
on 23 June 2006**

**Legal Service Division Report on
Proposed Resolution under section 100A of the
Interpretation and General Clauses Ordinance (Cap. 1)**

**Increase of Fines in Waterworks Ordinance
and Waterworks Regulations**

The Secretary for Environment, Transport and Works has given notice to move a motion under section 100A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Legislative Council meeting of 5 July 2006. The purpose of the motion is to seek the Legislative Council's approval to increase the amount of fines specified in the Waterworks Ordinance (Cap. 102) and the Waterworks Regulations (Cap. 102 sub. leg. A), and to convert the fines to the appropriate levels according to the standard scale of fines under the Criminal Procedure Ordinance (Cap. 221).

2. The Waterworks Ordinance provides for the regulation and control of the waterworks and of all water therein. The Waterworks Regulations, which are made under section 37 of the Waterworks Ordinance, provide for matters such as the quality and type of water supply, the method of measuring or assessing water consumption, the prevention of waste or misuse of water supply and the deposits to be paid by consumers. For the purpose of enforcement, certain acts relating to the use of water are made unlawful and constitute offences under the Waterworks Ordinance and the Waterworks Regulations. These offences include unlawful taking of water, polluting water forming part of the waterworks, wastage or misuse of water supply, damage to waterworks, fishing in waters forming part of the waterworks without a licence and use of fresh water for flushing without permission. The existing levels of fines for these offences range from \$4,000 to \$20,000.

3. According to the LegCo Brief issued by the Environment, Transport and Works Bureau in June 2006, the existing fines for offences under the Waterworks Ordinance and Waterworks Regulations have not been revised for a long time, with some dating back to 1975 while some were fixed in 1983. As the punitive effect of these fines have significantly diminished throughout the years as a result of inflation, the Administration considers it necessary to adjust the fines in line with past cumulative

inflation rate in order to maintain the deterrent effect of the offence provisions. To facilitate future revision of fines by a single legislative measure when the maximum fines become outdated owing to changing value of money, the Administration also proposes to convert the fines, after adjustment based on inflation, to the appropriate levels according to the standard scale of fines under Schedule 8 to the Criminal Procedure Ordinance.

4. The proposed resolution seeks to increase the fines for certain offences under the Waterworks Ordinance and the Waterworks Regulations by about 150% from \$4,000 to level 3 (\$10,000) and from \$20,000 to level 5 (\$50,000). These offences, the fines for which were fixed in 1983, include those relating to polluting water, fishing in waters without a licence and using fresh water for flushing without permission. For offences where the fines were fixed in 1975, including obstructing the Water Authority from exercising his powers or performing his duties under the Ordinance, unlawful taking of water and damage to waterworks, the proposed resolution proposes to increase the fines by about 400% from \$5,000 to level 4 (\$25,000). The daily fine for the continuation of the offence of polluting water or unlawful taking of water is also proposed to be increased from \$200 to \$1,000. Details of the proposed increases are set out in paragraph 7 and Annex B of the LegCo Brief.

5. The Panel on Planning, Lands and Works was consulted on the Administration's proposal to revise the fines provisions in the Waterworks Ordinance and the Waterworks Regulations by circulation of paper in April 2006 (LC Paper No. CB(1)1320/05-06(05)). Members did not raise any queries on the proposal.

6. If the proposed resolution is passed, the proposed increase in fines will come into operation on the day on which the resolution is published in the Gazette.

7. No difficulties relating to the legal and drafting aspects of the proposed resolution have been identified.

Prepared by

FUNG Sau-kuen, Connie
Assistant Legal Adviser
Legislative Council Secretariat
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