

**立法會**  
**Legislative Council**

LC Paper No. CB(1)234/06-07  
(These minutes have been seen  
by the Administration)

Ref: CB1/SS/4/05

**Subcommittee to Study the  
Proposed Resolution on Increase of Fines in  
Waterworks Ordinance and Waterworks Regulations**

**Minutes of the second meeting on  
Thursday, 28 September 2006, at 2:30 pm  
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Fred LI Wah-ming, JP (Chairman)  
Hon SIN Chung-kai, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon LEE Wing-tat  
Hon CHEUNG Hok-ming, SBS, JP
- Public officers attending** : Mr James S O CHAN  
Principal Assistant Secretary for the Environment,  
Transport and Works (Works)
- Mr S Y KWAN  
Assistant Director of Water Supplies/Development (Acting)
- Mr Roger M P LAM  
Chief Engineer/Customer Services (Acting)  
Water Supplies Department
- Mr W K KAM  
Senior Engineer  
Water Supplies Department
- Ms Rayne C H CHAI  
Senior Government Counsel  
Department of Justice
- Clerk in attendance** : Ms Anita SIT  
Chief Council Secretary (1)4

**Staff in attendance** : Ms Connie FUNG  
Assistant Legal Adviser 3

Mr WONG Siu-ye  
Senior Council Secretary (1)7

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Action

**I Confirmation of minutes of meeting**  
(LC Paper No. CB(1)2223/05-06 -- Minutes of meeting on  
21 July 2006)

The minutes of the meeting held on 21 July 2006 were confirmed.

**II Meeting with the Administration**  
(LC Paper No. CB(1)2095/05-06(01) -- Supplementary information  
provided by the Administration on  
prosecution figures for the past  
one year, five years and ten years  
in respect of each of the existing  
offence provisions in the  
Waterworks Ordinance and  
Waterworks Regulations)

2. The Subcommittee deliberated (Index of proceedings attached at **Annex A**).
3. The Subcommittee supported the proposed resolution.
4. The Subcommittee requested the Administration to review section 29 of the Waterworks Ordinance (WVO) in relation to the taking of stream water within gathering grounds by villagers with a view to reflecting clearly the Government's policy intention in the legislation. The Subcommittee also urged the Administration to ensure that in future, the fines provisions in WVO and the Waterworks Regulations (WWR) would be reviewed at appropriate intervals so that the intended deterrent effect of the fines provisions could be maintained and drastic increases in fines could be avoided. The Subcommittee requested that the Secretary for the Environment, Transport and Works (SETW) make undertakings in respect of the above two issues in her speech in moving the proposed resolution.

Action

**III Any other business**

5. Members noted that the Subcommittee would report to the House Committee on 13 October 2006 and the Administration could move a motion on the proposed resolution at a Council meeting after giving the required notice.
6. There being no other business, the meeting ended at 3:50 pm.

Council Business Division 1  
Legislative Council Secretariat  
6 November 2006

**Proceedings of the second meeting of the  
Subcommittee on Study the Proposed Resolution on Increase of Fines in  
Waterworks Ordinance and Waterworks Regulations  
on Thursday, 28 September 2006, at 2:30 pm  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000119	Chairman	Confirmation of minutes of the meeting held on 21 July 2006 (LC Paper No. CB(1)2223/05-06)	
000120 – 000216	Chairman	Opening remarks	
000217 – 001348	Administration Chairman Mr SIN Chung-kai Ms Audrey EU Mr CHEUNG Hok-ming	<p>Briefing by the Administration (LC Paper No. CB(1)2095/05-06(01))</p> <p>The Administration's confirmation that using salt water supplied through an inside service for keeping live seafood was an offence under section 29 of WWO, as section 29(1)(c) provided that except with the permission of the Water Authority, no person should take water through an inside service for any purpose other than that for which the water was supplied</p> <p>The Administration's advice that the Water Authority had recently instituted prosecution through the summary procedure against some food premises for the illegal use of salt water supplied through an inside service for non-flushing purposes</p> <p>Enquiry on whether taking stream water by villagers would constitute unlawful taking of water</p> <p>The Administration's explanation that taking stream water within gathering grounds would be unlawful but the Administration would take into consideration the fact that some villagers had been using stream water before the relevant gathering</p>	

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		<p>grounds were mapped</p> <p>The Administration's advice that no prosecution had ever been instituted in the past against the collection and diversion of stream water for irrigation and domestic uses. Past prosecution cases in respect of taking stream water within gathering grounds mainly involved continuous diversion of stream water for commercial or industrial uses</p>	
001349 – 002810	<p>Ms Audrey EU Administration Mr SIN Chung-kai Mr CHEUNG Hok-ming Chairman</p>	<p>Members noted that the definition of “waterworks” under WWO included gathering grounds and that the provisions on unlawful taking of water should apply to all regardless of whether the persons involved were inhabitants before the relevant gathering ground was mapped</p> <p>The Administration's response that although prosecutions could be instituted, the Administration would respect the pre-existing rights of villagers</p> <p>The Administration's further explanation that the provision on unlawful taking of water was intended to protect scarce water resources and the consumption of stream water by villagers for irrigation and domestic uses had not posed a significant problem to the water supply system at the moment</p>	
002811 – 004419	<p>Mr LEE Wing-tat Administration Mr SIN Chung-kai Chairman Ms Audrey EU</p>	<p>Members' concern that the public might question the legal basis for the exercise of discretion by the Water Authority in not taking enforcement actions against unlawful taking of water by villagers</p> <p>Members' suggestion that the provision on unlawful taking of</p>	

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		<p>water be reviewed and, if necessary, be amended to clearly reflect the Government's policy intention</p> <p>The Administration's response that it would undertake the review as suggested by members but given the need to effect the proposed increases in fines to accord with inflation without further delay, the proposed increases in fines should be treated separately and not be deferred pending completion of the review</p>	
004420 – 005316	Mr LEE Wing-tat Administration	<p>Support for the proposed increases in fines and enquiry on whether the Water Supplies Department (WSD) had any power to enter into premises for investigation of suspected unlawful diversion of water</p> <p>The Administration's advice that WSD would seek the consent of the occupier of the premises first, and if necessary, might obtain a warrant from a magistrate</p> <p>Enquiry on whether a water bill under dispute would have to be settled by the client first</p> <p>The Administration's response that a water bill under dispute could be suspended from settlement until completion of the investigation if so requested by the client; and that under normal circumstances the client had to settle the amount as stated in the bill unless irregularities were identified during the investigation</p>	
005317 – 010502	Ms Audrey EU Administration	Enquiry on whether WSD had any performance pledge for handling complaints about water leakage from inside services	

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		<p>The Administration's explanation that occupiers were responsible for proper maintenance of inside services and handling water leakage and seepage arising from defects of inside services. However, as water leakage or seepage might give rise to environmental, building safety or water wastage problems, WSD, the Food and Environmental Hygiene Department and the Buildings Department had set up an inter-departmental task force to handle water leakage and water seepage complaints. Depending on the circumstances of the case, the relevant department would arrange inspection of the inside service concerned. Although the performance pledges of WSD did not include this specific item, water leakage cases involving significant water loss and possible hazard to the residents would be handled within one to two days</p> <p>The Administration's further explanation that where there was leakage from an inside service, unless the water meter could detect significant water loss, no prosecution against waste or misuse of a supply would be made under section 28 of WWO, as there would not be sufficient evidence</p>	
010503 – 010943	Mr CHEUNG Hok-ming Administration Mr LEE Wing-tat	<p>Enquiry on whether diverting water at a point beyond the water meter of another user was in contravention of section 29 of WWO</p> <p>The Administration's advice that such act was more probably prosecuted for the offence of theft under the Theft Ordinance (Cap. 210). Where the case involved unlawful alteration of inside services,</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		the Water Authority could take enforcement action under section 14 of WWO, and WSD would provide assistance in entering the premises concerned if necessary	
010944 – 011640	Chairman Mr LEE Wing-tat Ms Audrey EU Administration	<p>Members' support of the proposed resolution on the condition that the Administration would, as a matter of priority, review section 29 of WWO in relation to the taking of stream water within gathering grounds by villagers</p> <p>The view that in future, the fines provisions in WWO and WWR should be reviewed at appropriate intervals to avoid drastic adjustments</p> <p>Request that SETW make undertakings on the above issues in her speech in moving the proposed resolution</p> <p>The Administration's response that the ongoing study on Total Water Management scheduled for completion by end 2007 included a review of WWO in relation to the study</p>	