

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Prevention and Control of Pollution)
Ordinance (Cap. 413)

MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) (CHARGES FOR DISCHARGE OF POLLUTING WASTE) (CHARGE REVISION) REGULATION 2006

INTRODUCTION

Under section 3(2A) of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) (the Ordinance), the Chief Executive in Council may make regulations for the payment of fees in respect of any survey, inspection, certificate, service or other matter provided for by regulations made under this Ordinance. By virtue of section 29A of the Interpretation and General Clauses Ordinance (Cap.1), where the amount of any fee or charge is for the time being specified in, or otherwise fixed or determined by, subsidiary legislation made by the Chief Executive in Council, the Financial Secretary (which means also the Secretary for Financial Services and the Treasury (SFST) by virtue of section 3 of Cap.1) may by similar subsidiary legislation increase or decrease, or otherwise vary, the amount of the fee or charge.

2. In exercising these powers, the SFST made the Merchant Shipping (Prevention and Control of Pollution) (Charges for Discharge of Polluting Waste) (Charge Revision) Regulation 2006 (the Regulation) at Annex A to revise certain charges payable under the Ordinance.

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BACKGROUND AND JUSTIFICATIONS

3. The charges for the discharge of polluting waste are set out in Schedule 2 to the Merchant Shipping (Prevention and Control of Pollution) (Charges for Discharge of Polluting Waste) Regulation. Such charges are payable to the Government for the use of reception facilities provided by the Chemical Waste Treatment Centre (CWTC) for the purpose of collection and disposal of polluting waste, such as liquid oil waste and sludge, from sea-going ships.

4. The charges were first introduced in 1995 and initially set at a level to recover the full departmental administration costs and approximately 20% of the variable operating cost (VOC)¹. Our original plan was to gradually increase the VOC recovery level from 20% to 100% by 2003-04. However, most Government fees and charges have been frozen since February 1998 as an exceptional measure to alleviate the financial burden on the public in times of economic difficulty. The charges for discharge of polluting waste from sea-going ships were last revised in 1997-98. To abide by the “user pays” principle, the Financial Secretary indicated in the 2004-05 Budget Speech the need to consider the resumption of revision of Government fees and charges. In this connection, a charges revision review exercise was conducted in 2004. The review indicated that the charges needed to be revised with a view to increasing the charges gradually to achieve 100% recovery of VOC over a four year period. In accordance with this approach, the recovery rates of unit cost at 100% VOC will be at the range of 48 - 68% after the current fee revision exercise. It should be noted that Government will still have to continue to bear the full fixed operating cost and capital cost. The proposed fee revisions as well as the unit cost at 100% VOC are attached at Annex B.

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THE AMENDMENT REGULATION

5. The Regulation at Annex A revises the charges prescribed in Schedule 2 to the Merchant Shipping (Prevention and Control of Pollution) (Charges for Discharge of Polluting Waste) Regulation. We propose that the new fees should come into effect on 31 March 2006.

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LEGISLATIVE TIMETABLE

6. The legislative timetable will be

Publication in the Gazette	13 January 2006
Tabling in the Legislative Council	18 January 2006
Commencement	31 March 2006

¹ The operating cost paid to the CWTC contractor comprises fixed operating cost (FOC) and variable operating cost (VOC). The FOC covers the contractor’s fixed expenses and does not relate to the quantity of waste received and treated at the CWTC. The VOC is paid to the contractor according to the quantity and type of marine polluting wastes treated at the CWTC.

IMPLICATIONS

7. The above proposal will result in an estimated increase in revenue of \$4.7 million per annum. There are no other financial or staffing implications. The proposed fee revisions will have no major impact on the trades concerned.

PUBLIC CONSULTATION

8. The Port Operations Committee (POC) of the Marine Department was consulted by circulation between 20 December 2004 and 14 January 2005. The majority, over 90% of the POC members raised no objection to the proposed revision of charges. The Environmental Affairs Panel of the Legislative Council was consulted on the proposal at its meeting on 21 December 2004. Members had no objection to the proposed revision of fees in accordance with the user pays principle. The Advisory Council on the Environment was consulted on the proposal at its meeting on 17 January 2005. Members supported the fee revision proposals which are in line with the user pays principle.

ENQUIRY

9. For any enquiries on this brief, please contact Mr. Sang FUNG, Senior Environmental Protection Officer of the Environmental Protection Department, at 2872 1681 or fax 2591 6662.

Environmental Protection Department
January 2006

**MERCHANT SHIPPING (PREVENTION AND CONTROL
OF POLLUTION) (CHARGES FOR DISCHARGE OF
POLLUTING WASTE) (CHARGES REVISION)
REGULATION 2006**

(Made by the Secretary for Financial Services and the Treasury
under section 29A of the Interpretation and General Clauses
Ordinance (Cap. 1) by virtue of section 3(2A) of the
Merchant Shipping (Prevention and Control of
Pollution) Ordinance (Cap. 413))

1. Commencement

This Regulation shall come into operation on 31 March 2006.

2. Schedule 2 amended

Schedule 2 to the Merchant Shipping (Prevention and Control of Pollution)
(Charges for Discharge of Polluting Waste) Regulation (Cap. 413 sub. leg. I) is
amended –

- (a) in item 1 –
 - (i) by repealing “473” and substituting “550”;
 - (ii) by repealing “1,255” and substituting “1,890”;
- (b) in item 2 –
 - (i) by repealing “450” and substituting “605”;
 - (ii) by repealing “4,557” and substituting “6,860”;
 - (iii) by repealing “696” and substituting “960”.

Secretary for Financial Services and
the Treasury

Explanatory Note

This Regulation increases the following charges payable to the Director of Marine for the use of reception facilities provided by the Chemical Waste Treatment Centre for the purpose of discharging polluting waste from a sea-going ship –

- (a) collection charge –
 - (i) for all types of polluting waste other than sludge (section 2(a)(i));
 - (ii) for sludge (section 2(a)(ii)); and
- (b) disposal charge for the following types of polluting waste –
 - (i) liquid oil waste or any other mixtures which contain oil (section 2(b)(i));
 - (ii) sludge (section 2(b)(ii)); and
 - (iii) noxious liquid substance or any other mixtures which contain residue of any noxious liquid substance (section 2(b)(iii)).

**Proposed Amendments to Charges Prescribed in
Schedule 2 to the Merchant Shipping (Prevention and Control of Pollution)
(Charges for Discharge of Polluting Waste) Regulation**

**Merchant Shipping (Prevention and Control of Pollution)
Ordinance (Cap. 413)**

Description	Unit Cost at 100% VOC ^{Note}	Existing Amount	Proposed Amount
1. Collection charge (for each cubic metre or part thereof) –			
(a) for all types of polluting waste other than sludge	\$812	\$473	\$550
(b) for sludge	\$3,498	\$1,255	\$1,890
2. Disposal charge (for each cubic metre or part thereof) – For each type of polluting waste –			
(a) liquid oil waste or any other mixtures which contain oil	\$1,272	\$450	\$605
(b) sludge	\$12,707	\$4,557	\$6,860
(c) noxious liquid substance or any other mixtures which contain residue of any noxious liquid substance	\$1,927	\$696	\$960

Note : Excluding fixed operating cost paid to contractor and capital cost