

立法會
Legislative Council

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 29 November 2006

**Proposed resolution under section 100A of the
Interpretation and General Clauses Ordinance**

I forward for Members' consideration a proposed resolution which the Secretary for the Environment, Transport and Works will move at the Council meeting of 29 November 2006 under section 100A of the Interpretation and General Clauses Ordinance. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The draft speech, in both English and Chinese versions, which the Secretary for the Environment, Transport and Works will deliver when moving the proposed resolution, is also attached.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 100A of the Interpretation and General Clauses Ordinance (Cap. 1))

INCREASE OF FINES IN WATERWORKS ORDINANCE AND WATERWORKS REGULATIONS

RESOLVED that –

- (a) the Waterworks Ordinance (Cap. 102) be amended –
 - (i) in section 30(4) by repealing “of \$20,000” and substituting “at level 5”;
 - (ii) in section 32 by repealing “of \$5,000” and substituting “at level 4”;
 - (iii) in section 35(1) by repealing “of \$5,000” and substituting “at level 4”;
 - (iv) in section 35(2) by repealing “\$200 for every day” and substituting “\$1,000 for every day”;
 - (v) in section 37(2) by repealing “of \$4,000” and substituting “at level 3”;
- (b) the Waterworks Regulations (Cap. 102 sub. leg. A) be amended –
 - (i) in regulation 44 by repealing “of \$4,000” and substituting “at level 3”;
 - (ii) in regulation 51(2) by repealing “of \$4,000” and substituting “at level 3”.

**Draft Speech of the Secretary for
the Environment, Transport and Works
(English translation)**

Madam President,

I move that the motion under the Interpretation and General Clauses Ordinance, as printed on the Agenda, be passed to revise the fines in the Waterworks Ordinance and Waterworks Regulations.

The proposed resolution before Members seeks to –

- (1) adjust the fines in the Waterworks Ordinance and Waterworks Regulations in line with past cumulative inflation rate; and
- (2) convert the fines, after adjustment based on inflation, to the appropriate levels according to the standard scale of fines under the Criminal Procedure Ordinance.

The fines provisions in the Waterworks Ordinance and Waterworks Regulations have not been revised for a long time, with some dating back to 1975 while the most up-to-date provision was made in 1983. Owing to the eroded value of money caused by inflation, the punitive effect of the fines provisions has significantly diminished over the years. When reporting on convictions for offences under the Waterworks Ordinance and Waterworks Regulations, the media have often criticised the lack of deterrent effect of the existing fines provisions. These media reports signify the growing expectation of the community at large for the Administration to deal stringently with unlawful acts, particular in relation to unmetered water consumption.

Against this background, we have reviewed the fines provisions in the Waterworks Ordinance and Waterworks Regulations, and concluded that early improvement can be achieved by adjusting the fines in line with past cumulative inflation rate. To maintain the deterrent effect, we propose that the fines in sections 30(4), 32, 35(1), 35(2) and 37(2) in the Waterworks Ordinance and regulations 44 and 51(2) in the Waterworks Regulations be brought up-to-date in terms of inflation as reflected in the movements of the Consumer Price Index (A). On this basis, the percentages of the proposed increase in the fines will range from about 150% to 400%. The revised level of fines will suitably enhance the deterrent effect of the relevant legislation with a view to protecting the precious water resources.

The opportunity is taken to convert the fines, after adjustment based on inflation, to the appropriate levels according to the standard scale of fines under Schedule 8 of the Criminal Procedure Ordinance. This will facilitate future revision by a single legislative measure when the maximum fines become outdated because of the changing value of money.

Having reviewed the imprisonment terms specified in sections 30(4) and 32 of the Waterworks Ordinance, we consider the existing provisions appropriate and do not propose any change.

The Subcommittee on Subsidiary Legislation under the House Committee of the Legislative Council has recently completed its study of the proposed resolution. Following the recommendation of the Subcommittee, we undertake to continue regular review of the fines provisions in the Waterworks Ordinance and Waterworks Regulations in future. We will also accord priority to reviewing the provision in relation to villagers' taking of stream water within gathering grounds for irrigation purposes. We are most

grateful for the support rendered by the Subcommittee for the proposed resolution.

Madam President, I beg to move.