

LEGISLATIVE COUNCIL BRIEF

Noise Control Ordinance (Cap. 400)
Merchant Shipping (Prevention and Control of Pollution)
Ordinance (Cap. 413)

NOISE CONTROL (GENERAL) (AMENDMENT) REGULATION 2008

NOISE CONTROL (AIR COMPRESSORS) (AMENDMENT) REGULATION 2008

NOISE CONTROL (HAND HELD PERCUSSIVE BREAKERS) (AMENDMENT) REGULATION 2008

MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) (CHARGES FOR DISCHARGE OF POLLUTING WASTE) (AMENDMENT) REGULATION 2008

INTRODUCTION

A-C On 21 April 2008, the Secretary for the Environment, under section 27(1) of the Noise Control Ordinance (NCO) (Cap. 400), made the Amendment Regulations at Annexes A to C to revise the fees specified in the respective subsidiary legislation listed below -

- (a) Noise Control (General) Regulations (Cap. 400 sub. leg. A);
- (b) Noise Control (Air Compressors) Regulations (Cap. 400 sub. leg. C); and
- (c) Noise Control (Hand Held Percussive Breakers) Regulations (Cap. 400 sub. leg. D).

D 2. On 18 April 2008, the Secretary for Financial Services and the Treasury (SFST), under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) and by virtue of section 3(2A) of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413), made the Merchant Shipping (Prevention and Control of Pollution) (Charges for Discharge of Polluting Waste) (Amendment) Regulation 2008 (see Annex D) to revise the charges payable under the

Merchant Shipping (Prevention and Control of Pollution) (Charges for Discharge of Polluting Waste) Regulation (Cap. 413 sub. leg. I) (MSPCR).

BACKGROUND AND JUSTIFICATIONS

3. It is government policy that fees and charges payable to the Government should in general be set at levels adequate to recover the full costs of providing the goods and services.

4. The fees under the NCO are for the processing of applications for Construction Noise Permits and Noise Emission Labels for the purpose of controlling noise from construction activities and from the use of noisy construction equipment. The charges under the MSPCR are for the use of reception facilities provided by the Chemical Waste Treatment Centre (CWTC) for the purpose of discharging polluting waste, such as liquid oil waste and sludge, from sea-going ships.

5. In line with the “user pays” principle and to avoid a very steep fee increase, we propose to continue to adopt the following general lines for fee increase under the NCO, based on the outcome of a recent costing exercise, namely :-

- (a) to achieve full-cost recovery within seven years for fees with an existing cost recovery rate of less than 40% of target, through an increase of about 20%; and
- (b) to achieve full-cost recovery within one to three years for fees with an existing cost recovery rate of over 70% of target, through an increase of about 10%.

6. The charges under the MSPCR for the use of reception facilities provided by the CWTC for discharging polluting waste will, following the recommendation of the charges revision review exercise conducted in 2004, be gradually increased to achieve full recovery of the variable operating cost (VOC¹) by four phases. The first phase was implemented on 31 March 2006. It is proposed to implement the second phase by increasing the average VOC recovery rate for the provision of reception facilities by the CWTC from 54% to 66%. It should be noted that the Government will still have to continue to bear the full fixed operating cost and capital cost.

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 CWTC. The VOC is paid to the contractor according to the quantity and type of marine polluting wastes treated at CWTC

E 7. The existing and proposed fees and charges are summarized at Annex E.

THE AMENDMENT REGULATIONS

A-E 8. The Amendment Regulations at Annexes A to D seek to revise the fees and charges as set out at Annex E with effect from 1 July 2008.

LEGISLATIVE TIMETABLE

9. The legislative timetable is as follows -

Publication in the Gazette	2 May 2008
Tabling at the Legislative Council	7 May 2008
Commencement	1 July 2008

PUBLIC CONSULTATION

10. The Port Operations Committee (POC) of the Marine Department was consulted by circulation between 10 December 2007 and 4 January 2008. The POC members raised no objection to the proposed revision of charges under the MSPCR.

11. The proposed fees and charges revisions were presented to the Legislative Council Panel on Environmental Affairs on 25 February 2008. Members of the Panel did not raise any objection to the proposed revisions.

12. On 10 March 2008, the Advisory Council on the Environment (ACE) was consulted on the proposed fees revisions under the NCO. Members were also informed of the proposed charges revisions under MSPCR. The ACE supported the proposals.

FINANCIAL AND CIVIL SERVICE IMPLICATIONS

13. The proposed fees and charges revisions will result in an estimated net increase in revenue of about \$12 million per annum.

14. There are no staffing implications.

OTHER IMPLICATIONS

15. The abovementioned proposals are in conformity with the Basic Law, including the provisions concerning human rights. The

Amendment Regulations do not affect the current binding effect of the respective Ordinances. The proposed fees and charges revisions will have no major impact on the trades concerned.

PUBLICITY

16. A press release will be issued when the Amendment Regulations are gazetted and a spokesman will be available to answer media enquiries.

ENQUIRY

17. 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
May 2008

List of Annexes

- Annex A Noise Control (General) (Amendment) Regulation 2008
- Annex B Noise Control (Air Compressors) (Amendment) Regulation 2008
- Annex C Noise Control (Hand Held Percussive Breakers) (Amendment) Regulation 2008
- Annex D Merchant Shipping (Prevention and Control of Pollution) (Charges for Discharge of Polluting Waste)(Amendment) Regulation 2008
- Annex E Comparison of the Existing and Proposed Fees and Charges

**NOISE CONTROL (GENERAL)(AMENDMENT)
REGULATION 2008**

(Made by the Secretary for the Environment under section 27 of the Noise Control Ordinance (Cap. 400) after consultation with the Advisory Council on the Environment)

1. Commencement

This Regulation shall come into operation on 1 July 2008.

2. Fees payable on application for a construction noise permit

(1) Regulation 8(1) of the Noise Control (General) Regulations (Cap. 400 sub. leg. A) is amended by repealing “\$830” and substituting “\$1,000”.

(2) Regulation 8(2) is amended by repealing “\$760” and substituting “\$910”.

Secretary for the Environment

2008

Explanatory Note

This Regulation increases the fees payable on applications for construction noise permits in respect of –

- (a) the use of powered mechanical equipment in construction work (other than percussive piling) or the carrying out of prescribed construction work (section 2(1)); and
- (b) the carrying out of percussive piling (section 2(2)).

**NOISE CONTROL (AIR COMPRESSORS)(AMENDMENT)
REGULATION 2008**

(Made by the Secretary for the Environment under section 27 of the Noise Control Ordinance (Cap. 400) after consultation with the Advisory Council on the Environment)

1. Commencement

This Regulation shall come into operation on 1 July 2008.

2. Application for the noise emission label

(1) Regulation 8(1) of the Noise Control (Air Compressors) Regulations (Cap. 400 sub. leg. C) is amended by repealing “\$445” and substituting “\$490”.

(2) Regulation 8(2)(c) is amended by repealing “\$445” and substituting “\$490”.

3. Schedule 3 amended

Schedule 3 is amended, in Note 4 of Form 1, by repealing “\$445” and substituting “\$490”.

Secretary for the Environment

2008

Explanatory Note

This Regulation increases the application fee for a noise emission label for an air compressor.

**NOISE CONTROL (HAND HELD PERCUSSIVE
BREAKERS)(AMENDMENT) REGULATION 2008**

(Made by the Secretary for the Environment under section 27 of the Noise Control Ordinance (Cap. 400) after consultation with the Advisory Council on the Environment)

1. Commencement

This Regulation shall come into operation on 1 July 2008.

2. Application for the noise emission label

(1) Regulation 8(1) of the Noise Control (Hand Held Percussive Breakers) Regulations (Cap. 400 sub. leg. D) is amended by repealing “\$445” and substituting “\$490”.

(2) Regulation 8(2)(c) is amended by repealing “\$445” and substituting “\$490”.

3. Schedule 3 amended

Schedule 3 is amended, in Note 4 of Form 1, by repealing “\$445” and substituting “\$490”.

Secretary for the Environment

2008

Explanatory Note

This Regulation increases the application fee for a noise emission label for a hand held percussive breaker.

**MERCHANT SHIPPING (PREVENTION AND
CONTROL OF POLLUTION) (CHARGES FOR
DISCHARGE OF POLLUTING WASTE) (AMENDMENT)
REGULATION 2008**

(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 1 July 2008.

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 “550” and substituting “675”;
 - (ii) by repealing “1,890” and substituting “2,540”;
- (b) in item 2 –
 - (i) by repealing “605” and substituting “840”;
 - (ii) by repealing “6,860” and substituting “9,230”;
 - (iii) by repealing “960” and substituting “1,320”.

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)); and
 - (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)).

1. Comparison of the Existing and Proposed Fees under the Noise Control Ordinance

<u>Description of Fee Item</u>	<u>Unit Cost</u> (HK\$)	<u>Existing Fee</u> (HK\$)	<u>Proposed Fee</u> (HK\$)
<u>Noise Control (General) Regulations (Cap. 400 sub. leg. A)</u>			
1. Application fee for a construction noise permit for construction work other than percussive piling	2,925	830	1,000
2. Application fee for a construction noise permit for percussive piling	2,247	760	910
<u>Noise Control (Air Compressors) Regulations (Cap. 400 sub. leg. C)</u>			
3. Application fee for a noise emission label for air compressor	573	445	490
<u>Noise Control (Hand Held Percussive Breakers) Regulations (Cap 400 sub. leg. D)</u>			
4. Application fee for a noise emission label for hand held percussive breaker	573	445	490

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

<u>Description</u>	<u>Unit Cost at 100% VOC^{Note} (HK\$)</u>	<u>Existing Charge (HK\$)</u>	<u>Proposed Charge (HK\$)</u>
1. Collection charge (for each cubic metre or part thereof) –			
(a) for all types of polluting waste other than sludge	877	550	675
(b) for sludge	3,826	1,890	2,540
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	1,379	605	840
(b) sludge	13,901	6,860	9,230
(c) noxious liquid substance or any other mixtures which contain residue of any noxious liquid substance	2,095	960	1,320

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