

**For discussion on
29 January 2015**

Bills Committee on District Cooling Services Bill

**The Administration's response to follow-up issues arising from
discussion at previous meeting on 13 January 2015**

Purpose

This paper sets out the Administration's response to the major concerns raised by Members at the meeting of 13 January 2015.

(a) Clarify, save for the proposed section 10(3) of the District Cooling Services Bill ("the Bill"), the means which would be adopted by the Director of Electrical and Mechanical Services ("DEMS") to give the respective requisite notices proposed by the Bill and to consider specifying the relevant means in the Bill.

2. Depending on the circumstances of each case, DEMS shall consider what the best practicable means would be, through which he shall give the requisite notices under the concerned clauses of the Bill. For instance, under clause 7(2), DEMS may be unable to notify an approved consumer for the building of the decision to suspend or terminate district cooling services in writing under clause 7(1)(f), which in DEMS's opinion that it is necessary to do so to protect life or property. Such circumstances are likely to be unforeseeable and urgent, and hence the Administration may have to notify the approved consumer verbally or through other communication means.

3. As regards clause 10(3) of the Bill, it stipulates that DEMS must inform the approved consumer for a building, by notice in writing, of the rates of primary charge applicable to the building for each subject period. As the rates of primary charge applicable to the building will form the basis of the district cooling services charges, to facilitate

confirmation and avoid future disputes, written notices are considered preferable and necessary.

4. Moreover, it should be noted that the use of the word “notify” in the concerned clauses of the Bill would not restrict the means, whether in writing or otherwise, through which DEMS may notify the person concerned. In other words, it would not prevent DEMS from notifying the person concerned in writing.

5. On the above basis, the Administration considers that the use of the word “notify” in the concerned clauses of the Bill would serve the Administration’s intention, and it is not preferable to specify any particular means through which DEMS shall give the requisite notices under the respective clauses, except for Clause 10(3) as explained in paragraph 3 above.

Part 2 – Clause 7

(b) Given that under the proposed section 7(1)(a) of the Bill, DEMS may suspend or terminate district cooling services to a building if there is no approved consumer for the building, advise how DEMS will handle such situation, including whether and how the Administration would communicate with individual occupiers / tenants of the building in the light of the absence of the approved consumer and consider setting out the relevant arrangements in the Bill.

6. Under clause (7)(1)(a) of the Bill, DEMS may suspend or terminate district cooling services to a building if there is no approved consumer for the building. The Electrical and Mechanical Services Department (EMSD) will use its best endeavours to inform the parties that may be affected by the suspension or termination of the district cooling services to that particular building, such as the occupiers / tenants of the building. Such efforts would include the posting of a notice at a conspicuous place at the main entrance of the building about the suspension or termination of district cooling services to that building, and the reasons for termination or suspension.

7. Should the posting of a notice at the main entrance of the building become impracticable, e.g. the building is undergoing major refurbishment works, EMSD would explore other administrative measures to inform the relevant parties of the suspension or termination of district cooling service, e.g. issuing a letter to the owners or the management company of the building. EMSD will also set up an enquiry hotline to handle public enquiries concerning district cooling services, including the suspension and termination of services. In the absence of an approved consumer for a particular building, EMSD will have to explore various possible administrative measures to inform the affected parties of DEMS' decision to suspend or terminate the district cooling services, having regard to the circumstances of each particular case.

8. It would be difficult to specify in the Bill the means of notifying the relevant parties, as any specified means of notification may not be practicable or feasible in all circumstances. The parties to be notified would also differ, depending on the circumstances of each particular case. That being the case, it would not be feasible to stipulate the relevant arrangements in the Bill. However, EMSD will undertake to use its best endeavours to inform the parties that may be affected by the suspension or termination of the district cooling services to that particular building.

(c) Provide details of the arrangements for the provision of district cooling services to a user building in case where the approved consumer for the building has ceased to exist without a replacement, in particular whether the Administration will charge individual occupiers / tenants of the building district cooling services charges directly during the transitional period and if yes, how this could be effected in terms of legal or administrative arrangements.

9. If the approved consumer for a building has ceased to exist without a replacement, EMSD will liaise with the relevant parties such as the owners or the management company of the building with a view to identifying the new approved consumer for the building as soon as practicable. Having regard to the circumstances of each particular case,

EMSD would assess if it is necessary and advisable to continue the provision of district cooling services after the approved consumer has ceased to exist and before the application submitted by the new consumer is approved.

10. As for the charging arrangements, as set out in the Legislative Council brief on the Bill issued in September 2014, the District Cooling System is to provide chilled water for central air-conditioning system on building basis, and the district cooling services tariff will be collected from the building owners of the central air-conditioning system or their authorized agents such as the building management offices (i.e. approved consumers). Charges for the district cooling services will not be imposed by the Government on individual occupiers / tenants of the building.

(d) Consider adding a provision in clause 7 of the Bill to set out a specified time after which DEMS will suspend or terminate the provision of district cooling services to a user building in case where the approved consumer for the building fails to settle any outstanding district cooling services charges (including surcharges and further surcharges) due to the Government.

11. As provided in clause 7(1)(b) of the Bill, DEMS may suspend or terminate district cooling services to a building if the approved consumer for the building fails to fulfil, or is in breach of, the undertaking given under clause 4(2)(c) in respect of the building. According to clause 4(3)(a), the undertaking given by the applicant includes the payment of any charge, fee or deposit payable in respect of the district cooling services provided to the building in accordance with this Ordinance. In this regard, if the approved consumer for a building fails to settle any outstanding district cooling services charges due to the Government, the Administration reserves the power to suspend or terminate district cooling services to the building.

12. It would not be advisable to set out in the Bill a specified time after which DEMS will suspend or terminate the supply of district cooling services should the approved consumer for a building fail to settle any outstanding district cooling services charges. Such

provisions may encourage the abuse of the district cooling services and hence the public funds necessary for supporting the provision of district cooling services to the consumer who fails to settle the fees and charges during the period when DEMS continues to provide services despite the consumer's failure to settle the fees and charges.

13. The arrangement of not providing a specified time after which DEMS will suspend or terminate the supply of district cooling services should the approved consumer for a building fail to settle any outstanding district cooling services charges is in line with the arrangement for water provision under the "Waterworks Ordinance" (Cap. 102).

14. On the other hand, should a consumer fail to settle the fees and charges on time, DEMS will liaise with the consumer to understand the situation and obtain further information about the operation of the building, and assess if it is necessary and advisable to continue the provision of district cooling services up to a specific date, having regard to the circumstance of that particular case.

Advice Sought

15. Members are invited to note the content of this paper.

Environment Bureau
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