

File Ref:

LEGISLATIVE COUNCIL BRIEF

Port Control (Cargo Working Areas) Ordinance (Cap. 81)

Port Control (Cargo Working Areas) (Amendment) Regulation 2014

INTRODUCTION

Section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) empowers the Financial Secretary (which means also the Secretary for Financial Services and the Treasury (SFST) by virtue of section 3 of Cap. 1) to vary fees which have previously been fixed by subsidiary legislation made by the Chief Executive in Council. SFST has made, under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) by virtue of section 6 of the Port Control (Cargo Working Areas) Ordinance (Cap. 81), the Port Control (Cargo Working Areas) (Amendment) Regulation 2014, as set out at **Annex**, to revise the Operation Area Permit (OAP) fee of the Public Cargo Working Areas (PCWAs) prescribed in item 16 of the Schedule (“the Schedule”) to the Port Control (Cargo Working Areas) Regulations (Cap. 81A).

BACKGROUND AND JUSTIFICATIONS

2. PCWAs are fenced off waterfront areas managed by the Marine Department (MD) under the provision of the Port Control (Cargo

Working Areas) Ordinance, Cap. 81 and its subsidiary legislation. Currently, there are six PCWAs¹ in Hong Kong. Through tender procedures, PCWA berths are leased out by way of Berth Licence Agreements (BLA). Berthing fees under BLA are subject to the annual adjustment of Government Consumption Expenditure Deflator. In addition, under regulation 7D(1) of Cap. 81A, the OAP permits PCWA operators to carry out cargo works within specified areas. The OAP fee is \$10 per square metre per month as set out in item 16 of the Schedule. It was first introduced in 1999 and has not been revised since then.

3. The Financial Secretary announced in the 2013-14 Budget Speech that all policy bureaux and departments should review their respective fees and charges, and the Government would first deal with fees which had not been revised for years and did not directly affect people's livelihood.

4. It is the Government's policy that the fees charged for using the PCWAs should in general be set at levels sufficient to recover the full cost to Government for providing the services and facilities in PCWAs, including the cost of capital employed. The relevant OAP fee is one of the fees charged for recovering the cost. We have reviewed the level of the OAP fee having regard to the above principle.

5. To meet the increased cost of providing the services and facilities at PCWAs and taking into account the accumulative increase of

¹ Namely Tuen Mun, Rambler Channel, Stonecutters Island, New Yaumatei, Chai Wan and Western District PCWAs.

the Composite Consumer Price Index by about 10.1% from 1999 to 2012, we propose an increase of 10% for OAP fee from \$10 to \$11 per square metre per month in two phases (i.e. to increase the OAP fee from \$10 to \$10.5 per square metre per month from 1 February 2015, and further increase the OAP fee from \$10.5 to \$11.0 per square metre per month from 1 August 2015), with a view to minimizing the possible impact on the trade.

THE PROPOSED AMENDMENTS

6. We propose to amend item 16 of the Schedule to the Port Control (Cargo Working Areas) Regulations (Cap. 81A) on Operation Area Permit – per m² of area per month. The fee amount is to be amended from “\$10” to “\$10.5” on 1 February 2015, and to be further amended from “\$10.5” to “\$11” on 1 August 2015.

LEGISLATIVE TIMETABLE

7. The proposed amendments to the Regulations will be gazetted on 5 December 2014 and tabled at the Legislative Council for negative vetting on 10 December 2014. The amendments will be commenced on 1 February 2015 and 1 August 2015 respectively.

IMPLICATIONS OF THE PROPOSAL

8. With the proposed adjustment in OAP fee, the estimated increase in revenue is about \$1.2 million per annum.

9. Most of the PCWA operators are small and medium enterprises. The proposed increase of the OAP fee is in line with inflation over the years, and we have taken steps to minimize the impact on operators through a phased approach². In general, in terms of the total fees which a PCWA operator has to pay Government for using PCWA berthing facilities and operating areas, the proposal would result in an average cost increase of about 0.9% for each phase³.

PUBLIC CONSULTATION

10. MD consulted the trade through the PCWA Management Committee Meeting held in March 2014 on the proposal to increase the OAP fee from \$10 to \$11 per square metre per month. Four written submissions were received regarding the proposed increase. Taking account of the trade's feedback, we refined the proposal by introducing a phased increase (i.e. the proposed \$1 increase to be introduced in two stages, with an increase of \$0.5 per square metre per month in early 2015, and another increase of \$0.5 per square metre per month six months

² The individual land areas under OAPs for operators' use ranges from 64m² to 3,290m², with an average area of 825m². The average monthly increase of OAP fees for operators is about \$412.5 on 1 February 2015 and another \$412.5 on 1 August 2015.

³ The average cost increase of 0.9% (for each phase) is derived from dividing the general average increase of OAP fee by the sum of total OAP fee and Berthing fee for each PCWA operator.

thereafter). At a further meeting of the Committee in June 2014, the attending representatives raised no objection to the phased increase proposal.

11. We consulted the Panel on Economic Development of the Legislative Council on 27 October 2014 on the phased increase proposal. Members supported the proposal.

PUBLICITY

12. A press release will be issued on 5 December 2014 and a spokesman will be available to handle enquiries.

ENQUIRIES

13. Any enquiry on this brief can be addressed to Mr. K W FUNG, Senior Marine Officer, Marine Department (Tel: 2852 4452).

Transport and Housing Bureau

Marine Department

2 December 2014

Port Control (Cargo Working Areas) (Amendment) Regulation 2014

(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 6 of the Port Control (Cargo Working Areas) Ordinance (Cap. 81))

1. Commencement

- (1) This Regulation, except section 3(2), comes into operation on 1 February 2015.
- (2) Section 3(2) comes into operation on 1 August 2015.

2. Port Control (Cargo Working Areas) Regulations amended

The Port Control (Cargo Working Areas) Regulations (Cap. 81 sub. leg. A) are amended as set out in section 3.

3. Schedule amended (fees and charges)

- (1) The Schedule, item 16—
Repeal
“10”
Substitute
“10.5”.
- (2) The Schedule, item 16—
Repeal
“10.5”
Substitute
“11”.



Secretary for Financial Services and
the Treasury

28 November 2014

Explanatory Note

This Regulation amends the Schedule to the Port Control (Cargo Working Areas) Regulations (Cap. 81 sub. leg. A) to increase in two phases the fee payable in respect of an operation area permit.

2. From 1 February 2015, the fee for each month in respect of each square metre of an operation area will increase from \$10 to \$10.5 (*adjusted fee*).
3. From 1 August 2015, the adjusted fee will increase to \$11.