

## Legislative Council Brief

# Waterworks (Waterworks Regulations) (Amendment) Bill 2021

## INTRODUCTION

1. This brief is in regards to the “Waterworks (Waterworks Regulations) (Amendment) Bill 2021” (“the Bill”), at **Annex**, that shall be introduced into the Legislative Council (“LegCo”) by Hon Alice Mak Mei-kuen.

## JUSTIFICATIONS

*The over-charging of water fees is unjust towards grassroot tenants*

2. In recent years, difficulties faced by grassroot tenants when finding housing were much concerned by the community, of which the over-charging of water fees by their landlords in sub-division of flat units (commonly known as "sub-divided units") has been a closely followed issue. Generally speaking, individual landlords collect more than the actual amount of water fee from their tenants through an agreement listed in their lease. A survey published by a concern group showed that tenants of these sub-divided units pay 1.2 times the original water fee<sup>1</sup>. In addition, another survey pointed out that the median water fee charge rate of sub-divided units is \$15 per cubic meter<sup>2</sup>, far higher than the charge rate by the Water Supplies Department, which highlighted how serious the issue is. Aside from being unfair to the tenants, the over-charging of water fees bring additional burden to grassroot households. Because of this, grassroot groups has been

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1 “The Ronald Coase Centre for Property Rights Research at the University of Hong Kong and the Concerning Grassroots’ Housing Rights Alliance” conducted a study from November 2017 to June 2018 and found that the average amount of water consumed of a 4 people family, as an example, is 13.65 cubic meter. The Water Supplies Department collects \$82.1 per month but sub-divided household needed to pay \$182.9 per month, it is around 1.2 times.

2 Society for Community Organization, 《Report on Electricity and Water fee of sub-divided units 2019》· 30 June 2019.

following this issue for a long time and has repeatedly urged the Government to enact legislation on prohibiting the over-charging of water fees.

*Current Regulations provides an opportunity for landlords to over-charge water fees*

3. Under the current Waterworks Regulations (Chapter 102, Subsidiary Legislation A) (“Regulations”) Section 51, any person who contravenes Section 47, that is, without the permission in writing of the Water Authority, sell or offer for sale water from the waterworks shall be guilty of an offence and shall be liable on summary conviction to a fine at Level 3. However, a consumer of an inside service who recovers the cost of water from any person is exempted in Section 47(2) of the Regulations in the same time, so they can collect cost of water from people listed below, including (i) who occupies the premises in which the inside service exists; and (ii) who uses in such premises water which is supplied through the inside service.
4. Facing demands from the public, the government has expressed that according to the Section 47(2) of the Regulations, the landlord can charge for the cost of water supplied to the tenant by the internal water supply system of the premise, which may also include other related fees, such as the expenses for the repairing and maintenance of the internal water supply system etc. Hence, the landlords and the tenants can determine the costs involved through their leases. We considered that the current Regulations thereby enabled some landlords to randomly set the amount of water fees to be paid by the tenants, providing them with the opportunity to over-charge their tenants, contributing to the continuation of dilemma for grassroot tenants.
5. Given the unjust situation the tenants of sub-divided units face and the demands from the public mentioned above, plus considering not only the inability of the current Regulations to effectively stop landlords from overcharging, but even providing a chance for landlords to freely resale the water supply from the Water Supplies Department to a third party through a separate clause in the lease for profit, we suggest amending the Waterworks Regulations (Chapter 102, Subsidiary Legislation A) to prohibit consumers from reselling water sold by the Water Authority from the waterworks for profit.

### *Proposed legislation*

6. We propose an amendment to the Regulations to stipulate that it is an offence for anyone to sell water for others at a rate in excess of the set water charge (that is set in Section 46 and Part 3 of Schedule 1 of the Regulations). To those who violating the Regulations shall be guilty of an offence and be liable on summary conviction to a fine at Level 3 (which is \$10000).
7. We expect that our proposal will provide a legal base to deterrent individual sub-divided unit owners from over-charging, easing the burden of grassroot families, especially for those who live in sub-divided units, and solving this unjust issue. Given the current Regulations allow landlords to charge tenants with water fees and other related costs, we hope through the amendment of the law, we can protect grassroot families from being over-charged.

### **THE BILL**

8. The main provisions of the Bill are summarized below.
  - (a) Clause 1 of the proposed Bill sets out the short title;
  - (b) Clause 3 of the proposed Bill amends Waterworks Regulations (Chapter 102, Subsidiary Legislation A) to introduce an offence to prohibit consumers for charging more than the set cost of water when selling water from the Waterworks to the others.

### **IMPLICATIONS FROM THE PROPOSAL**

9. The proposal is in conformity with the Basic Law, and does not have any economic, financial, environmental, sustainability, civil service, gender, productivity or family implications. In addition, we think the proposal does not involve issues related to public expenditure, our political system or government operations.

## **LEGISLATIVE TIMETABLE**

10. The legislative timetable is as follow:

Panel on Development	18 July 2018 28 April 2020
Publication in the Gazette	05 March 2021
First Reading and commencement of Second Reading debate	17 March 2021

## **CONSULTATION**

11. We have submitted the revised bill to the Panel on Development for discussion twice. The first discussion was on 18 July 2018 (at the time the bill was named “Waterworks (Waterworks Regulations) (Amendment) Bill 2017”), the second discussion was on 28 April, 2020 (at the time the bill was named “Waterworks (Waterworks Regulations) (Amendment) Bill 2019”). At the second meeting, the bill had the support of members and officials that were present to make the relevant amendments.
12. Given that the LegCo President ruled that the bill is related to Government policies on 17 November 2020, a written consent from the Chief Executive was required. We have sent a letter to the Chief Executive for the written consent on 18 November 2020 and received responses on 21 January 2021 and 16 February 2021 in which the Chief Executive gave her written consent to the relevant amendments.

## **ENQUIRY**

13. Any enquiry on this brief can be addressed to Hong Kong Federation of Trade Unions Legislative Council Member Hon. Mak Mei-kuen's Office at 2537 9618.

Hong Kong Federation of Trade Unions Legislative Council Member  
Hon. Mak Mei-kuen's Office  
March 2021

# A BILL

## To

Amend the Waterworks Regulations to prohibit a consumer from profiteering from the sale of supply of water provided by the Water Authority from the waterworks.

Enacted by the Legislative Council.

**1. Short title**

This Ordinance may be cited as the Waterworks (Waterworks Regulations) (Amendment) Ordinance 2021.

**2. Waterworks Regulations amended**

The Waterworks Regulations (Cap. 102 sub. leg. A) are amended as set out in section 3.

**3. Regulation 47 amended (prohibition of sale of water)**

Regulation 47(2)—

**Repeal**

“cost of water”

**Substitute**

“charges for water referred to in regulation 46”.

### Explanatory Memorandum

The purpose of this Bill is to amend the Waterworks Regulations (Cap. 102 sub. leg. A) (*Regulations*) to prohibit a consumer from profiteering from the sale of water provided by the Water Authority from the waterworks.

2. Clause 1 sets out the short title.

3. Clause 3 amends regulation 47 of the Regulations to make it an offence for a consumer to sell a supply of water to another person at price exceeding the charges for water.