

**立法會**  
*Legislative Council*

LC Paper No. LS53/20-21

**Paper for the House Committee Meeting  
on 19 March 2021**

**Legal Service Division Report on  
Waterworks (Waterworks Regulations) (Amendment) Bill 2021  
(Member's Bill)**

**I. SUMMARY**

- 1. The Bill**

The Bill is a Member's Bill introduced with the written consent of the Chief Executive. The Member in charge is Hon Alice MAK Mei-kuen, BBS, JP.

The Bill seeks to amend the Waterworks Regulations (Cap. 102A) to prohibit a consumer from profiteering from the sale of water provided by the Water Authority from the waterworks.
- 2. Public Consultation**

There is no information on whether public consultation has been conducted.
- 3. Consultation with LegCo Panel**

The Panel on Development was briefed at its meeting on 28 April 2020 on the legislative proposal. Members in general supported the legislative proposal.
- 4. Conclusion**

No difficulties have been identified in the legal and drafting aspects of the Bill. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

## II. REPORT

The date of First Reading of the Bill is 17 March 2021. Members may refer to the Legislative Council ("LegCo") Brief (with no file reference) issued by the Hong Kong Federation of Trade Unions Legislative Council Member and Hon Alice MAK Mei-kuen's Office in March 2021 for further details.

### Object of the Bill

2. The Bill proposes to amend the Waterworks Regulations (Cap. 102A) to prohibit a consumer from profiteering from the sale of water provided by the Water Authority ("WA") from the waterworks.

### Background

3. This is a Member's Bill introduced with the written consent of the Chief Executive. The Member in charge is Hon Alice MAK Mei-kuen, BBS, JP.

4. At present, under regulation 46 of Cap. 102A, WA shall charge the rates specified in Part 3 of Schedule 1 to Cap. 102A for fresh water supplied under the Waterworks Ordinance (Cap. 102). Regulation 47(1) of Cap. 102A stipulates that no person shall, without WA's written permission, sell or offer for sale water from the waterworks.<sup>1</sup> Regulation 47(2) provides that regulation 47(1) shall not apply to a consumer of an inside service<sup>2</sup> who recovers the cost of water from any person who occupies the premises in which the inside service exists and who uses in such premises water which is supplied through the inside service ("occupier of the premises").

5. According to paragraphs 4 and 5 of the LegCo Brief, the existing regulation 47 of Cap. 102A allows a landlord, who is the consumer of the inside service concerned, to charge for the cost of water supplied to the tenant, which may also include other related fees (such as the expenses for repairing and maintenance of the internal water supply system etc.). Hon Alice MAK considered that regulation 47 has a loophole enabling landlords to overcharge their tenants for the use of water which has caused injustice to the tenants of sub-divided units. The Bill seeks to plug the loophole.

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<sup>1</sup> Under section 2 of Cap. 102, "waterworks" means any property occupied, used or maintained by WA for the purposes of Cap. 102 and any gathering ground.

<sup>2</sup> Under section 2 of Cap. 102, "inside service" means the pipes and fittings in premises, and any pipes and fittings between the premises and a connexion to the main, (other than the pipes and fittings forming part of a fire service) which are used or are intended to be used for the purposes of a supply of water.

## **Provisions of the Bill**

6. The Bill seeks to amend regulation 47(2) of Cap. 102A by substituting "cost of water" with "charges for water referred to in regulation 46" to the effect that a consumer of an inside service may only recover from an occupier of the premises charges for water as billed by WA in accordance with the rates specified in Part 3 of Schedule 1 to Cap. 102A.

7. The effect of the proposed amendment, if passed, is that it would be an offence for a consumer of an inside service to sell or supply water to another person at a price exceeding the charges for water specified in Part 3 of Schedule 1 to Cap. 102A. The maximum penalty for the offence, as provided in regulation 51 of Cap. 102A, would be a fine at level 3 (i.e. \$10,000).

8. The Bill, if passed, would come into operation on the day on which the enacted Ordinance is published in the Gazette.

## **Public Consultation**

9. There is no information on whether any public consultation has been conducted.

## **Consultation with LegCo Panel**

10. As advised by the Clerk to the Panel on Development, the Panel discussed the proposed legislative amendments at its meeting on 28 April 2020. Members expressed concerns about the overcharging of water cost from tenants by sub-divided flat owners and the lack of enforcement action by the Administration under regulation 47 of Cap. 102A. Members in general supported the Bill to address the overcharging problem.

## **Conclusion**

11. No difficulties have been identified in the legal and drafting aspects of the Bill. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

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