

A BILL

To

Provide for the imposition of Sewage Charges and Surcharges and other related matters.

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. Short title and commencement

(1) This Ordinance may be cited as the Sewage Services Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Governor by notice in the Gazette.

2. Interpretation

In this Ordinance -

"agent" has the same meaning as in the Waterworks Ordinance (Cap. 102);

"communal service" has the same meaning as in the Waterworks Ordinance (Cap. 102);

"communal sewer" has the same meaning as in the Water Pollution Control Ordinance (Cap. 358);

"consumer" has the same meaning as in the Waterworks Ordinance (Cap. 102);

"domestic sewage" means waste of a kind and quantity that is generated by the use of a toilet, water closet, bath, shower,

sink, basin or other sanitary fitment in domestic premises or while at a place of work;

"Drainage Authority" means the Director of Drainage Services or his authorized representative;

"sewage charge" means a charge established under section 3(1);

"surcharge" means a trade effluent surcharge;

"trade effluent" means any liquid, either with or without particles of matter in suspension therein, that is wholly or in part produced in the course of any trade, business or manufacture;

"trade effluent surcharge" means a trade effluent surcharge established under section 4(1);

"wastewater" has the same meaning as in the Water Pollution Control Ordinance (Cap. 358);

"Water Authority" has the same meaning as in the Waterworks Ordinance (Cap. 102).

3. Sewage charges

(1) A consumer whose premises are connected to a communal sewer for the purpose of removing wastewater therefrom shall pay, or if there is a communal service, the agent shall pay, to the Crown a sewage charge as follows -

(a) a charge in a prescribed amount which shall be determined by reference to -

- (i) the diameter of the input pipe to the water meter installed by the Water Authority for the premises; and
- (ii) the category of user as determined by the regulations;

(b) a charge at a prescribed rate based on the volume of water supplied to the premises by the Water Authority.

(2) Notwithstanding subsection (1), where the Water Authority supplies water to a consumer but because of the small quantities consumed makes no charge for it, no sewage charge shall be paid by that consumer.

(3) The consumer or agent, as the case may be, shall be billed for, and shall pay, the sewage charges at the same time as for charges under the Waterworks Ordinance (Cap. 102), and sections 10(a), 19(4)(c), 21 and 34(2) and (3) of that Ordinance apply to an unpaid sewage charge as though it were a charge imposed under that Ordinance.

(4) An undertaking given by a consumer or agent under the Waterworks Ordinance (Cap. 102) shall be deemed to be an undertaking under this Ordinance also to pay the sewage charges in respect of the premises for which the undertaking is given, and section 20(2) of that Ordinance applies to the deemed undertaking under this subsection.

(5) Where a consumer is paying a charge under subsection (1)(a) based on being in a particular category of user and he subsequently changes his use of the premises to which the sewage charges relate such that the use would place him in a different category of user as determined by the regulations, he shall forthwith on changing the use notify the Drainage Authority of the change giving details of the new use sufficient for the Drainage Authority to identify the category of use for the purposes of establishing the charge payable under subsection (1)(a).

(6) Notwithstanding anything in this section, no sewage

charges shall be payable in respect of a freshwater flushing account established by the Water Authority.

4. Payment of effluent surcharges

(1) Where a consumer whose premises are connected to a communal sewer produces trade effluent that is discharged into the communal sewer, the consumer shall or if there is a communal service the agent shall, in addition to a sewage charge, pay to the Crown a trade effluent surcharge as provided in section 5.

(2) The Drainage Authority shall issue a bill for the trade effluent surcharge and the consumer shall pay the bill on the date specified in the bill.

(3) Where a consumer fails to pay the surcharge within the specified time, the Drainage Authority may notify the Water Authority that the surcharge is outstanding and, on being so notified, the Water Authority may exercise his powers under section 10(a) of the Waterworks Ordinance (Cap. 102) as though the surcharge were a charge imposed under that Ordinance.

(4) The Drainage Authority may require a consumer to whom this section applies to pay a deposit to cover any surcharge that may become due.

(5) If a consumer does not pay the deposit within the time specified for payment in the notice requiring payment of the deposit, the Drainage Authority may notify the Water Authority that payment has not been received and, on being so notified, the Water Authority may exercise his powers under section 19(2) of the Waterworks Ordinance (Cap. 102) as though the deposit were a deposit for which payment was not made under that Ordinance.

(6) A deposit paid under this section -

- (a) shall not bear interest;
- (b) shall not be transferable; and
- (c) may, without prejudice to the exercise of any other power under this Ordinance, be applied by the Drainage Authority at any time to the payment of any surcharge.

(7) Subject to subsection (6)(c), the Drainage Authority shall refund a deposit to a consumer if -

- (a) another consumer is approved by the Water Authority in his place;
- (b) an undertaking given by the consumer under section 7 of the Waterworks Ordinance (Cap. 102) is cancelled by the Water Authority; or
- (c) the Drainage Authority is of the opinion that the deposit is no longer required.

(8) Notwithstanding anything in this section, no surcharges shall be payable in respect of a freshwater flushing account established by the Water Authority.

S. Determination of trade effluent surcharges

(1) On the coming into operation of this Ordinance and until a date established by a regulation made by the Governor in Council, a person who is liable to pay a trade effluent surcharge under section 4 shall, where the premises to which the surcharge relates produce trade effluent in the course of a trade, business or manufacture listed in Column 1 of the Schedule, pay a surcharge at the rate specified in Column 2 of the Schedule for each cubic metre of water

supplied by the Water Authority.

(2) On and after a date established by a regulation made by the Governor in Council, a person who is liable to pay a trade effluent surcharge under section 4 shall pay a surcharge at a rate established by the regulations.

6. Liability for sewage charges and trade effluent surcharges

A consumer or agent, as the case may be, shall be liable to pay sewage charges and surcharges for as long as he is liable under section 20 of the Waterworks Ordinance (Cap. 102) to pay charges under that Ordinance.

7. Unpaid surcharges

(1) A surcharge which is not paid shall be a debt due to the Crown.

(2) Where a surcharge is not paid on or before the date specified in a notice of demand, a penalty on the unpaid surcharge may be levied in accordance with regulations made under this Ordinance.

8. Presumptions and evidence in writing

(1) In any civil proceedings a document, purporting to be signed by the Drainage Authority stating in the case of proceedings for the recovery of an unpaid surcharge, -

- (a) the name of the person liable to pay the surcharge;
- (b) the amount of the surcharge;
- (c) the nature and other particulars of the surcharge; and
- (d) that the surcharge remains unpaid,

shall be admitted in evidence without further proof.

(2) When a document is admitted in evidence under subsection (1) -

- (a) it shall, in the absence of evidence to the contrary, be presumed that the document is so signed;
- (b) the document shall be prima facie evidence of the facts stated therein.

9. Variances of charges

The Drainage Authority may, on application by a consumer or agent, vary the amount of a sewage charge or surcharge where he is satisfied that the premises in respect of which the sewage charge or surcharge is levied are used for industrial, commercial, recreational or agricultural purposes of such a nature that a substantial portion of the water supplied to the premises is not discharged into a public drain.

10. Reduction, etc of charges

(1) The Drainage Authority may in any particular case reduce, waive or refund, in whole or in part, sewage charges or surcharges.

(2) A reduction, waiver or refund of sewage charges only shall not be granted in respect of more than one billing period preceding the billing period in which the application was made.

11. Access to premises by Drainage Authority

(1) The Drainage Authority may, at all reasonable times, enter the premises of a consumer who is liable to a surcharge for the purposes of collecting samples of trade effluent being discharged

into a public drain or for the purposes of measuring the strength of trade effluent being so discharged.

(2) Where the Drainage Authority leaves equipment in a consumer's premises for measuring the strength of trade effluent, no person shall tamper with the equipment.

(3) A person who -

(a) obstructs the Drainage Authority in the exercise of his powers under this section; or

(b) tampers with equipment contrary to subsection (2), commits an offence and is liable on conviction to a fine of \$[10,000].

12. Regulations

(1) The Governor in Council may make regulations -

(a) establishing the rates and amounts of sewage charges to be paid under this Part;

(b) establishing the rates of trade effluent surcharges and the regulations may establish different rates for different categories of producers of trade effluent and may establish rates based on the relative strength of the trade effluent produced, and the regulations may establish the methods of measuring and determining the amount and strength of trade effluent including the relative strength compared to the average strength of domestic sewage;

(c) establishing financial penalties for unpaid sewage charges and surcharges."

(d) requiring the furnishing of information needed for

billing purposes by the Drainage Authority.

(2) A regulation made under this section may provide that a contravention thereof shall be an offence and may prescribe a penalty for such offence not exceeding a fine of \$4,000.

13. Appeal to the Administrative Appeals Board

A person aggrieved by any decision of the Drainage Authority made in respect of him under this Ordinance may, within 28 days from the date when he was informed of the decision, appeal to the Administrative Appeals Board.

Consequential Amendment

Administrative Appeals Board Ordinance

14.

The Schedule to the Administrative Appeals Board Ordinance (6 of 1994) is amended by adding -

"26. Sewage Services Ordinance (Cap.)

A decision of the Drainage Authority under the Ordinance.

Explanatory Memorandum

The purpose of this Bill is to provide for the imposition of sewage charges and trade effluent surcharges.

The Bill will provide for the payment of a sewage charge by all persons who pay for water under the Waterworks Ordinance (Cap. 102) and, in addition, the payment of a trade effluent surcharge by persons who produce such effluent in the course of carrying on a commercial enterprise.