

ADVISORY COUNCIL ON THE ENVIRONMENT

(31.1.94)

(ACE 2/94)

(For Advice)

Water Pollution Control Ordinance
(Chapter 358)

Water Pollution Control (Sewerage) Regulation

Water Pollution Control (General) (Amendment) Regulation

Background

At the meeting on 19 October 1992, Members advised that a recommendation should be made to the Governor in Council to amend the Water Pollution Control Ordinance to, inter alia, add regulation-making powers necessary for the Authority, i.e. the Director of Environmental Protection, to require the connection of wastewater to public sewerage and the proper maintenance of private wastewater treatment facilities. The Water Pollution Control (Amendment) Ordinance 1992 was approved for introduction into the Legislative Council on 9 December 1992 and was passed on 24 November 1993. The operational details of these proposals are now contained in the proposed Water Pollution Control (Sewerage) Regulation at Annex A.

A

2. Minor amendments are also proposed to the Water Pollution Control (General) Regulations to improve the enforcement effectiveness and to enable the Authority to better perform his duties under the Ordinance. These amendments are set out in the Water Pollution Control (General) (Amendment) Regulation at Annex B.

B

Water Pollution Control (Sewerage) Regulation

3. The principal provisions in the proposed Sewerage Regulation at Annex A are outlined below.

Connection of wastewater to new public sewerage

4. Under the Sewage Strategy endorsed by Members in 1989, a series of sewerage improvement schemes are being constructed in the territory in accordance with a phased programme. To ensure the cost effectiveness of the sewerage capital programme and to optimize the utilization of new sewerage facilities, it is proposed that the Authority may by service of a notice require the property owners to convey their wastewater to a terminal manhole within the time specified in the notice. The Government will be responsible for connecting up the manhole to the new public sewerage (Clauses 2 and 3). The property owners are required to maintain the sewerage works that they have constructed (Clause 4).

5. Private wastewater treatment facilities may become redundant as a result of the connection works. It is proposed that the Authority may by service of a notice require the property owners to fill in or demolish these facilities and any associated drainage specified in the notice (Clause 5).

6. If the works referred in paragraphs 4 and 5 are not completed by the property owners within the time specified, the Authority may enter any land or premises to carry out the works and recover the costs from the property owners. The affected owners and the occupiers will be notified in advance of the nature and extent of the works (Clause 7).

Private wastewater treatment facilities in water control zones

7. Some private wastewater treatment facilities in existing residential developments are not working properly, resulting in pollution to nearby streams and beaches. To rectify the situation, it is proposed that the Authority may by notice require the owners to construct works, effect repairs or carry out operations as specified in the notice within a specified time. Where the works or repairs are not effected within the time specified, the Authority may undertake the works and recover the costs from the owners (Clauses 6 and 7).

8. In the case of a communal wastewater treatment facility, if the owners cannot operate the facility properly and the effluent from the facility does not comply with the licence requirements or is likely to endanger public health, the Authority may apply to a magistrate for an order empowering him to enter premises and take over the operation of the communal facility. Management of the private treatment facility would be handed back to the owners when they can prove to the magistrate that the facility will be operated and maintained to the required standard (Clause 8).

Compensation Claims

9. The proposed procedures for handling compensation claims under the Sewerage Regulation follow the established arrangements under the Roads (Works, Use and Compensation) Ordinance (Chapter 370) subject to some minor modifications set out in Part I of Schedule 2 to the proposed Sewerage Regulation (Clauses 9 - 24).

Appeal

10. A property owner who disputes his liability to carry out the works as required in a notice issued by the Authority, or disputes the amount to be recovered by the Authority as the cost of such works, may appeal to the Appeal Board constituted under the Water Pollution Control Ordinance (Clause 25).

Penalty

11. The penalty for not complying with a requirement for connection to public sewerage (paragraph 4), maintenance of sewerage works (paragraph 4) or demolition of a redundant wastewater treatment facility (paragraph 5) is proposed to be a fine of \$100,000, and a fine of \$5,000 for each day the offence has continued (Clause 27(1)).

12. A separate offence is proposed for not complying with a requirement to operate and maintain a private wastewater treatment facility in a water control zone (paragraph 7). The proposed penalty is a maximum fine of \$200,000 and a fine of \$10,000 for each day the offence has continued (Clause 27(2)).

The Water Pollution Control (General) (Amendment) Regulation

13. We propose to add to the General Regulations :

- (a) under section 35(1) of the Water Pollution Control Ordinance, additional information which may be sought by the Authority when processing an application for a licence under the Ordinance (Clause 6 of the General (Amendment) Regulation at Annex B); and
- (b) under section 46(3) of the Ordinance, the licence provisions which, if not complied with, may lead to a maximum penalty of a fine of \$100,000 and imprisonment for 6 months (Clause 7).

14. Minor amendments are also proposed to the General Regulations to improve the enforcement effectiveness. These include the proposals to adopt a Demand Note System in lieu of collecting cash, cheques and money orders from a licence applicant (Clause 9), to use a daily rate instead of an hourly rate for calculating the flow rate of an effluent (Clause 10), and to extend the lower licence fee applicable to domestic discharges to an industrial, institutional or commercial establishment which produces domestic sewage only (Clause 10).

Public Consultation

15. When the District Boards, the Heung Yee Kuk and the two Municipal Councils considered the proposals in the Water Pollution Control (Amendment) Ordinance 1992, they were also consulted on the operational details of these proposals. There was general support to the proposed arrangements which would enable the Authority to control water pollution more effectively. The minor amendments proposed to the General Regulations will streamline the administrative arrangements and should be welcome by the general public.

Advice Sought

16. Members are requested to advise whether the Water Pollution Control (Sewerage) Regulation at Annex A and the Water Pollution Control (General) (Amendment) Regulation at Annex B should be recommended to the Governor in Council.

Planning, Environment and Lands Branch
January 1994