

ADVISORY COUNCIL ON THE ENVIRONMENT

(ACE 25/94)
for advice

**The Public Health (Animals & Birds)
(Licensing of Livestock Keeping) Regulation 1994**

**The Waste Disposal (Livestock Waste)
(Amendment) Regulation 1994**

**Waste Disposal Ordinance
(Amendment of Fourth Schedule) Notice 1994**

Introduction

This paper seeks Members' support for the captioned subsidiary legislation and notice in order to implement the revised Livestock Waste Control Scheme.

Background

2. At the EPCOM meeting on 20 September 1993, Members supported the revised Livestock Waste Control Scheme (LWCS) and advised that a recommendation be made to the Executive Council to introduce the Waste Disposal (Livestock Waste) (Amendment) Bill 1993 and the Public Health (Animals & Birds) (Amendment) Bill 1993 (hereinafter called The Bills). The Bills were passed by the Legislative Council on 27 April 1994.

3. At the same EPCOM meeting, Members also endorsed the draft Waste Disposal (Livestock Waste) (Amendment) Regulation, which contains consequential amendments to the main Ordinance. The Amendment Regulation was also approved in principle by the Governor in Council on 5 October 1993. However, because the legislative process for the Bills took longer time than expected, amendments have to be made to some of the dates contained in this Regulation.

4. A first working draft of the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation which sets out the details of the livestock keeping licensing scheme, was also given to Members at the same EPCOM meeting for information. It is now finalized for Members' advice.

The Legislation

The Waste Disposal (Livestock Waste) (Amendment) Regulation 1994 [Annex A]

5. The Waste Disposal (Livestock Waste) Regulation is amended in consequence of amendments made to the main Ordinance. The major amendments proposed are as follows -

- (a) clause 5 prescribes the implementation schedule of the discharge standards and reduces the number of samples required for prosecution to one sample;
- (b) clause 7 increases the maximum fines for contravention of the Regulation from \$5,000 to \$50,000; and
- (c) clause 8 sets out the implementation schedule of the discharge standards, broken down by areas. The relevant dates for all livestock waste control areas have been adjusted from 1 January to 1 July for all years concerned. The schedule for the livestock waste Restriction Areas will be in two phases with the relevant dates adjusted accordingly.

The Public Health (Animals & Birds) (Licensing of Livestock Keeping) Regulation 1994 [Annex B]

6. This Regulation sets out the details of the licensing system. The major provisions are summarized as follows:-

7. Clause 3 specifies the requirement for a licence from the Director of Agriculture and Fisheries (the Director) for all livestock farms within a livestock waste Control Area. (The requirement for a licence for all livestock farms within a livestock waste restriction area has been provided for in the Waste Disposal (Amendment) Ordinance 1994.) The penalty for operating without a licence is \$50,000 for a first offence, \$100,000 for subsequent offenses, and a fine of \$1,000 per day for continuous offence.

8. Clause 4 provides that the licence shall be valid for a period of 3 years, and it shall be subject to terms and conditions relating to the keeping of livestock, public health or environmental protection. For livestock waste Restriction Areas, only farms which have been continuously used for livestock keeping for at least 12 months immediately before the commencement of the Waste Disposal (Amendment) Ordinance 1994 shall be licensed. No licence shall be granted to farms within these restriction areas which receive ex-gratia payment for cessation of livestock keeping after that date.

9. Clauses 5 & 6 provide that copies of the plan of the livestock premises have to be attached to an application for a licence and that a licence can only be granted after the plan has been approved and the premises has conformed to the plan.

10. Clause 7 disallows alteration or addition to any approved livestock premises without the Director's approval. It also enables the Director to direct any licensee to carry out alteration or addition to the livestock premises to remedy or avoid breaching of any licence conditions.

11. Clause 8 sets out some of the conditions under which the Director may revoke a licence - if the licensee is no longer keeping livestock in or on the licensed premises; if the licensee has contravened the provisions under clause 7 regarding alteration of licensed premises; and if the licensee has committed or has been convicted of an offence of providing false information in connection with his application under the Ordinance.

12. Clause 9 enables the Director to exempt exhibition activities from the licensing requirement and to impose conditions to such exemptions.

13. Schedule 1 lists the effective dates of the licensing requirement by control areas.

14. Schedule 2 sets out the licence fees.

Waste Disposal Ordinance (Amendment of Fourth Schedule)
Notice 1994 [Annex C]

15. The Fourth Schedule to the Ordinance is amended to increase the number of poultry allowed inside the livestock waste Prohibition Areas and the livestock waste Restriction Areas from 10 to 20. For livestock waste Control Areas, a similar increase from 10 to 20 poultry is also made so that any person who keeps under 20 poultry will not have to apply for a licence.

16. Parks, zoos and other premises managed by AFD, USD and RSD, as well as premises in which livestock is kept for the purpose of exhibition or education will also be exempted.

Appeal Against Licensing Decision

17. Any person who are aggrieved by the decision of the Director to the issue or revocation of his licence can appeal to the Governor-in-Council under existing provisions. However, action is being taken to provide an independant appeal board under the Administration Appeal Board Ordinance to take over this function.

Public Consultation

18. The Livestock Waste Disposal Consultative Committee, the Livestock Sub-committee of the Advisory Committee on Agriculture and Fisheries, the Joint Committee of Agriculture & Livestock Keeping Association, the NT Chicken Breeders Association, the HK (NT) Poultry-Culture (Geese & Ducks) Mutual Association, the HK Livestock Industry Association, the Yuen Long District Board and the Legco Panel on Environmental Affairs - were consulted on the operational details contained in these two Regulations when they considered the revised LWCS and the Bills. The views of all concerned had been taken into careful consideration and adjustment where appropriate had been made accordingly.

Publicity

19. A pamphlet on the details of the control scheme and licensing procedure is being prepared and will be distributed to farmers shortly.

Advice Sought

20. Members are requested to advise whether the The Public Health (Animals & Birds) (Licensing of Livestock Keeping) Regulation 1994 at Annex A, the Waste Disposal (Livestock Waste) (Amendment) Regulation 1994 at Annex B, and the Waste Disposal Ordinance (Amendment of Fourth Schedule) Notice 1994 at Annex C should be recommended to the Governor in Council.

Planning, Environment and Lands Branch
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