

AIR POLLUTION CONTROL (OPEN BURNING) REGULATION

(Made under section 43 of the Air Pollution Control Ordinance (Cap. 311) after consultation with the Advisory Council on the Environment)

1. Interpretation

In this Regulation -

"construction site" means a place where construction work is carried out and any area in the immediate vicinity of any such place which is used for the storage of materials or plant used or intended to be used for the purpose of the construction work;

"construction waste" means any waste emanating from or located at a construction site;

"construction work" includes -

- (a) the alteration, construction, demolition, maintenance, reconstruction, repair or shoring of the whole or any part of any airport, arch, bridge, building, channel, chimney, dock, drain, embankment, hoarding, lighting, pier, public utility, railway, road, service lane, shelter, slope, street, tramway, tunnel, wall, water conduit, wharf or other structure;
- (b) dredging;
- (c) the extraction from the earth of any matter whatsoever;
- (d) piling;
- (e) quarrying;

- (f) the reclamation of any foreshore and sea-bed;
- (g) any work involved in preparing for any operation of the type referred to in paragraph (a), (b), (c), (d), (e) or (f); and
- (h) the use of machinery, plant, tools, gear and materials in connection with or for any operation referred to in paragraph (a), (b), (c), (d), (e), (f) or (g);

"open burning" -

- (a) means combustion of materials of any type outdoors without any enclosure, where the products of combustion are not directed through a chimney;
- (b) does not mean combustion attendant on the normal and ordinary use of a soldering iron, blowtorch or similar appliance for the purpose for which they are intended to be used;

"permit" means a permit issued by the Authority under section 5.

2. Application

This Regulation applies to all open burning except the following -

- (a) burning of candle-sticks, joss paper, incense, sacrificial articles and ritual offerings to the deceased, spirits or gods in customary or religious rites, festivals and on festive occasions;
- (b) fires used solely for cooking of food for human consumption, or fires used solely for recreational purposes using wood or charcoal or a small amount of

firestarter;

- (c) fires set for the purpose of fire testing, training and education by any Government fire fighting force or agency;
- (d) agricultural burning of materials grown on the site, solely for the purpose of weeding, land disinfection, pest control, or burning to make firebreaks in the countryside; and
- (e) any open burning which in the opinion of the Director of Environmental Protection is required in an emergency for the purpose of ensuring public safety.

3. Prohibited open burning

(1) Open burning for the following purposes is prohibited -

- (a) the disposal of construction waste;
- (b) the clearance of a site in preparation for construction work;
- (c) the disposal of tyres; and
- (d) the salvage of metal.

(2) Any person who carries out open burning which is prohibited by virtue of subsection (1) commits an offence and is liable -

- (a) upon first conviction to a fine at level 5 and a further fine of \$500 for every 15 minutes during which the offence has continued; and
- (b) upon subsequent conviction to a fine at level 5 and to imprisonment for 3 months and a further fine of \$500 for every 15 minutes during which the offence has continued.

4. Permitted open burning

(1) Open burning to which this Regulation applies by virtue of section 2 shall not be carried out except in accordance with a permit issued under section 5.

(2) The Authority shall not issue a permit for open burning which is prohibited by virtue of section 3.

5. Application for and issue of permit

(1) The Authority may issue a permit under section 4(1) to an applicant upon application and payment of the fee of \$3,318.

(2) An application for a permit -

(a) shall be made in such form as may be specified by the Authority;

(b) shall be made not less than 28 days prior to the carrying out of the intended open burning; and

(c) shall be accompanied by such particulars as the Authority may require.

(3) The fee specified in subsection (1) -

(a) shall be paid by the applicant in respect of each application at the time that the application is made; and

(b) shall not be refundable.

(4) A permit -

(a) shall be in such form as specified by the Authority;

(b) shall be valid for 1 year or such lesser period as may be specified by the Authority; and

(c) shall be subject to such conditions as may be imposed by the Authority including conditions as to the dates, the permitted hours, location and number of

times of the open burning, and the weight and nature of materials to be burnt, having regard to the abatement of air pollution which is existing or imminent, the practicability and environmental impact of alternative means of waste disposal and the attainment of any relevant air quality objective.

(5) The Authority may on application made in that behalf issue a new permit to replace a permit previously issued by the Authority.

(6) The Authority may refuse to issue a permit or may revoke a permit and in any such case the Authority shall inform the applicant in writing of that refusal or of that revocation, as the case may be, and the reasons therefor.

6. Offences and penalties

(1) Any person who -

- (a) without a permit, carries out open burning for which a permit may be issued under section 4; or
- (b) being a permit holder contravenes any condition to which the permit is subject,

commits an offence.

(2) Any person who commits an offence under subsection (1) is liable -

- (a) upon first conviction to a fine at level 5 and a further fine of \$500 for every 15 minutes during which the offence has continued; and
- (b) upon subsequent conviction to a fine at level 5 and to imprisonment for 3 months and a further fine of \$500 for every 15 minutes during which the offence has continued.

7. Transitional provision for section 6

(1) Subject to subsection (2), section 6 shall come into operation on the expiry of 28 days after the commencement of this Regulation.

(2) Where before the expiry of 28 days after the commencement of this Regulation an application is made to the Authority for the issue of a permit under section 5, then in relation to the applicant

- (a) if the Authority issues a permit, section 6(1)(b) shall come into operation on the expiry of the day that the permit is issued;
- (b) if the Authority refuses to issue a permit, section 6(1)(a) shall come into operation on the expiry of the day that the issue of a permit is refused.

Secretary for Planning,
Environment and Lands.

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Explanatory Note

Sections 2 to 4 of this Regulation specify -

(a) the types of open burning to which this Regulation does not apply;

(b) the types of open burning which are prohibited and the offence and penalty; and

(c) the types of open burning which are permitted.

2. Section 5 provides for the procedure for applying for and the issuing of a permit.

3. Section 6 sets out the penalties for committing an offence.

4. Section 7 provides for a transitional period for section 6 which commences immediately after this Regulation comes into force.