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(ACE Paper 25/98)
for information

**The Imposition of a Statutory Time Limit
to the Water Pollution Control (Sewerage) Regulation for Resolving Objections**

Introduction

This paper informs Members that a statutory time limit of nine months for resolving objections has been introduced to the Water Pollution Control (Sewerage) Regulation (Cap. 358, sub. leg.) (the Sewerage Regulation) with effect from 3 April 1998.

Background

2. To dovetail with government's commitment to make available the essential infrastructure facilities to support and increase the overall supply for housing, a statutory time limit of nine months for resolving objections, which could be further extended by another six months by the Chief Executive, has recently been introduced to a number of legislations under which members of the public could lodge objections against public works projects, namely the Roads (Works, Use and Compensation) Ordinance, the Foreshore and Sea-bed (Reclamations) Ordinance, the Town Planning Ordinance and the Sewerage Regulation. The statutory time limit has come into effect on 3 April 1998.

3. As far as the Sewerage Regulation is concerned, the introduction of the statutory time limit does not require any amendments to the existing Regulation. This is because Section 11 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370) (the Roads Ordinance), which has been amended by the Roads (Works, Use and Compensation) (Amendment) Ordinance 1998 (the Roads (Amendment) Ordinance 1998) by adding new sub-sections (1A)(a) to (c) to provide for the statutory time limit concerned, has all along been applied for the purpose of carrying out works under the Sewerage Regulation. By virtue of Section 15 of the Interpretation and General Clauses Ordinance, Cap. 1, any reference in the Sewerage Regulation to the Roads Ordinance is deemed to include a reference to that Ordinance as the same may be amended from time to time. The statutory time limit as specified in the amended Section 11 of the Roads Ordinance has therefore been applied automatically to the Sewerage Regulation.

4. The amended Sections 11(1A)(a) to (c) of the Roads Ordinance are enclosed at the Annex for Members' reference.

5. Apart from amending Section 11, a new Section 42(6) has also been added to the Roads Ordinance to take care of transitional matters. The new Section 42(6) specifies that, in the case of unresolved objections which are related to projects gazetted before the commencement of the Roads (Amendment) Ordinance 1998, the nine-months time limit should be counted from the commencement of the Roads (Amendment) Ordinance 1998 or the expiry of the time for the lodging of objections, whichever is the later. Since the original Section 42 of the Roads Ordinance has not been applied for the purpose of carrying out works under the Sewerage Regulation, the new Section 42(6) is therefore not automatically applied. DEP also considers it unnecessary to apply this new section. As at 3 April 1998 when the Roads (Amendment) Ordinance 1998 came into effect, there were only two unresolved objections against a sewerage project. In the absence of Section 42(6) of the Roads Ordinance being applied to the Sewerage Regulation, the nine-month period for resolving these objections would count from the expiration of the period for lodging objections, which is 27 January 1998, rather than the date of the commencement of the Roads (Amendment) Ordinance 1998 (i.e. : 3 April 1998). The difference is therefore about two months, which should not significantly affect the outcome of the Administration's discussion with the objectors. If it is considered that the availability of a few more months would lead to the satisfactory resolution of the objections, the new Section 11(1A)(c) of the Roads Ordinance, which has been applied automatically, would provide the mechanism for DEP to seek from the Chief Executive an extension of not more than six months to further resolve the objections.

Advice Sought

6. Members are requested to note the contents of the paper.

Planning, Environment and Lands Bureau
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