

立法會
Legislative Council

LC Paper No. CB(1) 2410/03-04
(These minutes have been seen
by the Administration)

Ref: CB1/BC/4/03/2

**Bills Committee on
Waste Disposal (Amendment) (No. 2) Bill 2003**

**Minutes of the sixth meeting
held on Thursday, 27 May 2004, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Dr Hon LAW Chi-kwong, JP (Chairman)
Hon Miriam LAU Kin-ye, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon LI Fung-ying, JP
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon LEE Cheuk-yan
Hon Abraham SHEK Lai-him, JP
Hon Michael MAK Kwok-fung

Public officers attending : Environment, Transport and Works Bureau

Ms Doris CHEUNG
Deputy Secretary (Environment and Transport) E1

Mrs Teresa WONG
Principal Assistant Secretary (Environment and Transport) E2

Ms Joyce HO
Assistant Secretary (Environment and Transport) E2

Environmental Protection Department

Dr Ellen CHAN
Assistant Director (Waste Facilities)

Mr Edmond HO
Principal Environmental Protection Officer (Waste Policy &
Services)

Civil Engineering Department

Mr Michael LEUNG
Senior Engineer/Port Works

Department of Justice

Miss Shandy LIU
Senior Government Counsel

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Mary TANG
Senior Council Secretary (1)2

I. Meeting with the Administration

- (LC Paper No. CB(1) 1937/03-04(01) -- Proposed Waste Disposal
(Charges for Waste Disposal)
Regulation and Waste Disposal
(Designated Waste Disposal
Facility) (Amendment)
Regulation
- LC Paper No. CB(1) 1937/03-04(02) -- List of follow-up actions arising
from the discussion on
21 May 2004)

The Committee deliberated (Index of proceedings attached at **Annex A**).

2. The Administration was requested to take into account the following views expressed by members in finalizing the proposed Waste Disposal (Charges for Waste Disposal) Regulation -

- (a) to review whether the term “principal contractor” tallied with its definition in section 2 and the propriety of using “primary contractor” as a substitute;
- (b) to ensure that the drafting of section 3(2) was consistent with the relevant provisions in the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 in the light of the possibility of compromising the policy intent of not allowing indiscriminate dumping at landfills;
- (c) to review the proposed daily fine under section 11(6) which seemed to be on the high side. Reference should be made to similar provisions in other legislation to ascertain the propriety of the daily fine;
- (d) to review the power of the Director of Environmental Protection (DEP) to impose conditions for granting billing accounts under section 12(2) which was too wide. Consideration should be given to making it clear that there were general conditions under which a billing account would be granted, and that only under exceptional circumstances (to be specified) should DEP impose other conditions on the granting of billing accounts;
- (e) to review whether the reference to “particulars” in section 12(6) was appropriate. Reference to “information” and “supporting materials” were made in sections 11(3) and 12(4)(a). The Administration should also consider whether the “particulars” were to be specified;
- (f) to provide a defence of reasonable excuse under section 12(7) since the Administration had explained that even though such a defence was not expressly provided, a reasonable excuse raised by a defendant might still be recognized by the court. The penalty for contravention at level 5 was also too heavy;
- (g) to consult the trade on the charging arrangement for disposal of inert construction waste carried by vessels at public fill reception facilities under section 13(3) and Schedule 3;
- (h) to review the wording “from time to time” in section 14(1) and consider the propriety of using “monthly” or “periodically” as a substitute;

- (i) to express in section 15(7) the policy intent of allowing DEP to impose other conditions for granting a new billing account to the account-holder of a revoked billing account;
- (j) to narrow the scope of “The exemption may apply to, but is not limited to” in section 16(1);
- (k) to review the scope of section 20(b) taking into account that waste haulers might inadvertently certify matters, such as waste content, which they might not have knowledge of.

3. The meeting ended at 4:30 pm.

Council Business Division 1
Legislative Council Secretariat
21 July 2004

**Proceedings of the meeting of the
Bills Committee on Waste Disposal (Amendment) (No. 2) Bill 2003
Meeting on Thursday, 27 May 2004, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000115	Chairman Administration	Introductory remarks and discussion on the Administration's response (tabled at the meeting and subsequently circulated vide LC Paper No. CB(1) 1971/03-04(01)) to the list of follow-up actions arising from the discussion on 21 May 2004 (LC Paper No. CB(1) 1937/03-04(02))	
000116 - 001650	Ms Miriam LAU Chairman Mr Albert CHAN Mr LEUNG Fu-wah Ms Emily LAU Ms LI Fung-ying Administration	<p>Noted that the Bills Committee on the Buildings (Amendment) Bill 2003 took the view that the proposed minor works control regime should be withdrawn and that the Administration would further consult the trade on the issue. Discussion on the need for mandatory registration of renovation contractors</p> <p>Members' views -</p> <p>(a) need to avoid shifting of responsibility for payment of waste disposal charges to waste haulers; and</p> <p>(b) while there was support for a registration scheme for renovation contractors for better management of the trade and introduction of good trade practices, there was opposition against imposing a mandatory requirement for renovation contractors to open billing accounts as this had not undergone adequate consultation with the trade and would delay the passage of the Bill</p>	

Time marker	Speaker	Subject(s)	Action required
		Administration's response - (a) renovation contractors were expected to open billing accounts for disposal of construction waste of their projects due to operational need; and (b) need to rely on self-discipline of the trades	
001651 - 001918	Ms Miriam LAU	Concern about unfair competition resulting from monopolization of waste collection trade by large companies which would open billing accounts and offer upfront payments for waste disposal on behalf of their clients	
001919 - 002912	Chairman Administration Ms Miriam LAU Mr LEUNG Fu-wah Miss CHOY So-yuk	Divergent views on the lowering of the threshold of \$1 million for which penalty would be imposed on failure to open a billing account	
002913 - 003250	Chairman Miss CHOY So-yuk Administration Ms Miriam LAU	Agreement on the extension of the period from 14 to 21 days during which a contractor of a works contract valued \$1 million or over should open billing accounts	
003251 - 003940	Chairman Administration Miss CHOY So-yuk Ms Miriam LAU	Discussion on stepping up of education and publicity to let users of waste disposal facilities including renovation contractors know the need to open billing accounts	
003941 - 004038	Chairman Administration Miss CHOY So-yuk	Discussion on strengthening of enforcement against falling objects from open topped vehicles	

Time marker	Speaker	Subject(s)	Action required
004039 - 004244	Chairman Administration Miss CHOY So-yuk	Propriety of using the term “principal contractor” and whether the use of “primary contractor” would be more appropriate	The Administration to review whether the term “principal contractor” tallied with its definition in section 2 and the propriety of using “primary contractor” as a substitute
004245 - 004700	Chairman Ms Miriam LAU Miss CHOY So-yuk Administration	Examination of the draft Waste Disposal (Charges for Waste Disposal) Regulation Section 3(2) - concern about the power of landfill operators to reject a truck load of inert construction materials to be disposed of at landfills even though waste haulers were willing to pay landfill charges	The Administration to ensure that the drafting of section 3(2) was consistent with the relevant provisions in the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 in the light of the possibility of compromising the policy intent of not allowing indiscriminate dumping at landfills

Time marker	Speaker	Subject(s)	Action required
004701 - 011940	Chairman Miss CHOY So-yuk Ms Miriam LAU Administration	<p>Sections 11 and 12</p> <p>(a) penalty for contravention of sections 11(5) and 12(6) at level 5 was too high;</p> <p>(b) propriety of imposing a high daily fine of \$5,000 for continuing offence under section 11(6);</p> <p>(c) need for defence under sections 11(7) and 12(7) since the related offence was of strict liability; and</p> <p>(d) need to be clear and consistent about the “particulars, information and supporting materials” required under sections 11 and 12 and the types of changes which required notification since failure to do so would constitute an offence under sections 11(7) and 12(7)</p>	<p>The Administration to -</p> <p>(a) review the proposed daily fine under section 11(6) which seemed to be on the high side. Reference should be made to similar provisions in other legislation to ascertain the propriety of the daily fine; and</p> <p>(b) provide a defence of reasonable excuse under section 12(7) since the Administration had explained that even though such a defence was not expressly provided, a reasonable excuse raised by a defendant might still be recognized by the court. The penalty for contravention at level 5 was also too heavy; and</p> <p>(c) review whether the reference to “particulars” in section 12(6) was appropriate. Reference to “information” and “supporting materials” were made in sections 11(3) and 12(4)(a). The Administration should also consider whether the “particulars” were to be specified</p>

Time marker	Speaker	Subject(s)	Action required
011941 - 012940	Chairman Ms Miriam LAU Administration Ms LI Fung-ying Ms Emily LAU	Section 13 (a) charging level for waste carried by vessel based on net registered tons of the vessel appeared to be very significant. The Administration explained that basically an unit rate of \$27 per tonne had been employed in the assessment. The amounts of per-vessel charging were significant because the payload in a vessel could be hundreds of times of that in a truck; and, (b) need to consult the trade on the charging arrangement for disposal of inert construction waste carried by vessels at public fill reception facilities under section 13(3) and Schedule 3	The Administration to consult the trade on the charging arrangement for disposal of inert construction waste carried by vessels at public fill reception facilities under section 13(3) and Schedule 3
012941 - 013651	Chairman Ms Emily LAU Administration Miss CHOY So-yuk	Section 14 Need to review the wording “from time to time” in section 14(1) and consider the propriety of using “monthly” or “periodically” as a substitute	The Administration to review the wording “from time to time” in section 14(1) and consider the propriety of using “monthly” or “periodically” as a substitute

Time marker	Speaker	Subject(s)	Action required
013652 - 014120	Chairman Ms Emily LAU Administration	Section 15 (a) power of the Director of Environmental Protection (DEP) to impose conditions for granting billing accounts under section 12(2) was too wide; and (b) the policy intent of allowing DEP to impose other conditions for granting a new billing account to the account-holder of a revoked billing account should be set out in section 15(7)	The Administration to - (a) review the power of DEP to impose conditions for granting billing accounts under section 12(2) which was too wide. Consideration should be given to making it clear that there were general conditions under which a billing account would be granted, and that only under exceptional circumstances should DEP impose other conditions on the granting of billing accounts; and (b) express in section 15(7) the policy intent of allowing DEP to impose other conditions for granting a new billing account to the account-holder of a revoked billing account
014121 - 014312	Chairman Ms Emily LAU Administration	Section 16 Section 16(1) regarding “the exemption may apply to, but is not limited to” was not clear as to what should be exempted	The Administration to narrow the scope of “The exemption may apply to, but is not limited to” in section 16(1)
014313 - 015105	Ms Emily LAU Mr Albert CHAN Administration	Section 20 Concern about the circumstances under which waste haulers might inadvertently certify matters, such as waste content, which they might not have knowledge of	The Administration to review the scope of section 20(b) taking into account that waste haulers might inadvertently certify matters, such as waste content, which they might not have knowledge of

Time marker	Speaker	Subject(s)	Action required
015106 - 015342	Chairman	Examination of the Waste Disposal (Designated Waste Disposal Facility)(Amendment) Regulation 2004	
015343 - 015445	Chairman	Clause-by-clause examination of Bill to proceed at the next meeting after discussion on disposal of waste at private agricultural land	

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21 July 2004