

**WASTE DISPOSAL (AMENDMENT) BILL 2005****CONTENTS**

Clause	Page
1. Short title and commencement .....	C1203
2. Interpretation .....	C1203
3. Section added	
9A. Collection of chemical waste or clinical waste in special circumstances .....	C1205
4. Licensing of collection and scavenging services .....	C1207
5. Section substituted	
11. Prohibition of collection of waste unless licensed or authorized .....	C1207
6. Prohibition of unauthorized disposal of waste .....	C1207
7. Information as to waste delivered for disposal .....	C1209
8. Permit required for the import of waste into Hong Kong .....	C1209
9. Permit required for the export of waste from Hong Kong .....	C1209
10. Section added	
20DA. Authorization for disposal of certain imported waste	C1211
11. Offences under this Part .....	C1213
12. Seizure and disposal of waste following conviction .....	C1215
13. Interpretation and application .....	C1217
14. Applications for and grant of licences .....	C1217
15. Circumstances under which waste disposal licence for chemical waste or clinical waste is to be granted .....	C1217
16. Effect of licences .....	C1217
17. General provisions as to licences .....	C1219
18. Other powers of authorized officers .....	C1219
19. Analysis of samples .....	C1221
20. When appeal may be brought .....	C1221

Clause	Page
21. Regulations .....	C1221
22. Amendment of Schedules .....	C1225
23. Waste to which sections 20A(1)(a) and 20B(1)(a) apply .....	C1225
24. Waste to which sections 20A(1)(b) and 20B(1)(b) apply .....	C1227
25. Schedules 8, 9, 10 and 11 added	
Schedule 8 Groups of clinical waste .....	C1231
Schedule 9 States included in Annex VII of The Basel Convention .....	C1233
Schedule 10 Matters to which terms and conditions of waste collection licence may relate .....	C1235
Schedule 11 Matters to which terms and conditions of waste disposal licence may relate .....	C1239

### **Consequential Amendments**

#### **Waste Disposal (Chemical Waste) (General) Regulation**

26. Director to issue trip ticket .....	C1249
---	-------

#### **Waste Disposal (Permits and Licences) (Forms and Fees) Regulation**

27. Title amended .....	C1249
28. Sections repealed .....	C1249
29. Schedule 1 repealed .....	C1249
30. Fees .....	C1249

# A BILL

## To

Amend the Waste Disposal Ordinance.

Enacted by the Legislative Council.

### 1. Short title and commencement

(1) This Ordinance may be cited as the Waste Disposal (Amendment) Ordinance 2005.

(2) Subject to subsection (3), this Ordinance shall come into operation on a day to be appointed by the Secretary for the Environment, Transport and Works by notice published in the Gazette.

(3) This section, sections 8, 9, 13, 23, 24 and 25 (in so far as it relates to the new Schedule 9) shall come into operation on the day on which this Ordinance is published in the Gazette.

### 2. Interpretation

Section 2(1) of the Waste Disposal Ordinance (Cap. 354) is amended—

- (a) in the definition of “animal waste”—
  - (i) in paragraph (c), by repealing the semicolon and substituting a comma;
  - (ii) by adding “but does not include clinical waste;” after paragraph (c);
- (b) in the definition of “collection authority”, in paragraph (a), by adding “and clinical waste” after “waste”;
- (c) in the definition of “disposal”, by adding “and clinical waste” after “waste”;
- (d) in the definition of “trade waste”, by repealing “and chemical waste” and substituting “, chemical waste or clinical waste”;

- (e) in the definition of “waste”, by adding “clinical waste,” after “chemical waste,”;
- (f) in the definition of “獲豁免的人”, by repealing “。” and substituting “;”;
- (g) by adding—
  - ““clinical waste” (醫療廢物) means waste consisting of any substance, matter or thing belonging to any of the groups specified in Schedule 8 that is generated in connection with—
    - (a) a dental, medical, nursing or veterinary practice, or any other practice or establishment (howsoever described) providing medical care and services for the sick, injured, infirm or those who require medical treatment;
    - (b) dental, medical, nursing, veterinary, pathological or pharmaceutical research; or
    - (c) a—
      - (i) dental;
      - (ii) medical;
      - (iii) veterinary; or
      - (iv) pathological, laboratory practice,
 but does not include chemical waste or radioactive waste;
  - “designated waste disposal facility” (指定廢物處置設施) means any premises specified as such in regulations made under section 33 for the purposes of subsection (4) of that section;”.

### 3. Section added

The following is added—

#### “9A. Collection of chemical waste or clinical waste in special circumstances

The collection authority may provide services for the collection and removal of chemical waste or clinical waste—

- (a) in response to an accident or emergency involving such waste; or
- (b) in circumstances where the authority thinks that it would not be reasonably practicable to arrange for such waste to be collected or removed by—

- (i) the holder of a licence under section 10(5) for providing services for the collection or removal of such waste; or
- (ii) a person authorized pursuant to any regulation made under section 33(1)(ca) to provide services for the collection or removal of such waste.”.

#### **4. Licensing of collection and scavenging services**

Section 10 is amended—

- (a) by repealing subsection (2);
- (b) in subsection (5), by adding “or clinical waste” after “chemical waste”.

#### **5. Section substituted**

Section 11 is repealed and the following substituted—

##### **“11. Prohibition of collection of waste unless licensed or authorized**

- (1) Subject to section 12, where—
  - (a) the collection authority provides any services under section 9; or
  - (b) any person is permitted to provide any services specified in section 9 pursuant to a licence under section 10(1),any other person (other than the holder of a licence under section 10(1) for provision of the services) who provides the services commits an offence and is liable to a fine at level 6.
- (2) A person who provides services for the collection or removal of chemical waste or clinical waste, other than—
  - (a) the holder of a licence under section 10(5) for provision of the services; or
  - (b) a person authorized to provide the services pursuant to any regulation made under section 33(1)(ca),commits an offence and is liable to a fine at level 6.”.

#### **6. Prohibition of unauthorized disposal of waste**

Section 16 is amended—

- (a) in subsection (2)—

- (i) by adding “or premises” after “of land”;
- (ii) in paragraph (d), by adding “or clinical waste” after “waste”;
- (iii) by repealing paragraph (e) and substituting—
  - “(e) the disposal of chemical waste or clinical waste by a person who is authorized, pursuant to any regulation made under section 33(1)(da), to use the land or premises for that purpose;
  - (f) the disposal of such wastes or classes of wastes in such circumstances as may be prescribed.”;
- (b) in subsection (4), by adding “or clinical waste” after “chemical waste”.

## **7. Information as to waste delivered for disposal**

Section 19(2) is amended by repealing “of \$5,000” and substituting “at level 6”.

## **8. Permit required for the import of waste into Hong Kong**

Section 20A(4) is amended—

- (a) in paragraph (b)(ii), by repealing “and”;
- (b) in paragraph (c)(ii), by repealing “; or” and substituting a semicolon;
- (c) in paragraph (d), by repealing the full stop and substituting a semicolon;
- (d) by adding—
  - “(e) in the case of waste of a kind specified in the Seventh Schedule, that the waste is not exported from a state that is listed in Schedule 9; and
  - (f) that the issue of such permit is not in breach of Hong Kong’s obligations under The Basel Convention.”.

## **9. Permit required for the export of waste from Hong Kong**

Section 20B(4) is amended—

- (a) in paragraph (d), by repealing “and”;
- (b) in paragraph (e)(ii), by repealing “; or” and substituting a semicolon;

- (c) in paragraph (f), by repealing the full stop and substituting “; and”;
- (d) by adding—
  - “(g) that the issue of such permit is not in breach of Hong Kong’s obligations under The Basel Convention.”.

## 10. Section added

The following is added—

### “20DA. Authorization for disposal of certain imported waste

(1) This section applies only to waste the import of which into Hong Kong does not require a permit under section 20A, and the reference to “imported waste” (進口廢物) in this section shall be construed as a reference to waste of this category that has been imported into Hong Kong.

(2) The disposal of any imported waste at a designated waste disposal facility requires an authorization granted by the waste disposal authority under this section.

(3) An application for the authorization shall be made in writing in such form as the waste disposal authority may specify.

(4) On receipt of an application made by any person (“the applicant”) for the authorization, the waste disposal authority may, subject to subsection (5)—

- (a) grant the authorization, with or without conditions; or
- (b) refuse to grant the authorization,

and shall notify the applicant of his decision and, in the case of refusal, the reasons for such refusal.

(5) The waste disposal authority shall not grant an authorization under subsection (4)(a) unless the applicant proves to the satisfaction of the authority that—

- (a) the import of the waste concerned into Hong Kong did not require a permit under section 20A;
- (b) it is not practicable to make alternative arrangement for the imported waste to be used (whether in Hong Kong or elsewhere) for the purpose of reuse, or a reprocessing, recycling or recovery operation (“the specified purpose”), in a manner acceptable to the authority; and

- (c) it is not practicable for the applicant to return, or cause the importer of the imported waste to return, the imported waste to the state of export,

and in determining the practicability of the matters specified in paragraphs (b) and (c), the lack of financial means to carry out an alternative arrangement or return the imported waste to the state of export (as the case may be) shall not be a relevant consideration.

(6) Without prejudice to the generality of subsection (4)(a), a condition attached to an authorization may—

- (a) require the applicant to pay such charge as the waste disposal authority may determine for recovery of the cost of disposal of the imported waste;
- (b) specify the manner, place and time of the disposal;
- (c) specify the arrangements to be made and the procedures to be observed in relation to the disposal.

(7) The waste disposal authority may require an applicant to furnish him with such information as he considers necessary for determining whether or not to grant the authorization, and in particular, such information may relate to—

- (a) the details of the original arrangement made for the imported waste to be used for the specified purpose after the import;
- (b) the reasons why the original arrangement cannot be carried out;
- (c) proof of any attempt made in making alternative arrangement for the imported waste—
  - (i) to be used (whether in Hong Kong or elsewhere) for the specified purpose;
  - (ii) to be returned to the state of export.

(8) The provisions in this section shall be in addition to and shall not derogate from any other provision of this Ordinance.”.

## 11. Offences under this Part

Section 20E is amended—

- (a) in subsection (1)—
  - (i) in paragraph (a)—
    - (A) by adding “or an authorization granted” after “issued”;
    - (B) by adding “or authorization” after “such a permit”;
  - (ii) in paragraph (b)—

- (A) by adding “or an authorization granted” after “issued”;
- (B) by adding “or authorization” after “such a permit”;
- (b) in subsection (2), by adding “or the grant of an authorization” after “permit”.

## 12. Seizure and disposal of waste following conviction

Section 20F is amended—

- (a) in subsection (1)—
  - (i) by adding “or the disposal of any imported waste referred to in section 20DA(2),” after “any waste,”;
  - (ii) in paragraph (b)—
    - (A) in subparagraph (i), by adding “or the disposal of any imported waste referred to in section 20DA(2)” before “, to return”;
    - (B) in subparagraph (ii), by repealing “manner.” and substituting—
      - “manner,
      - and may, by such notice or by any other notice in writing, require the convicted person to furnish the waste disposal authority within a specified time with documentary evidence to show that the requirements made under subparagraph (i) or (ii) have been complied with.”;
- (b) in subsection (3), by repealing everything after “under” and substituting—
  - “subsection (1)(a) or (2)—
    - (a) (where the offence is in respect of the import or export of any waste) the importer or exporter of the waste, as the case may be; or
    - (b) (where the offence is in respect of the disposal of any imported waste referred to in section 20DA(2)) the convicted person,
 shall be liable to the waste disposal authority for the cost of such seizure and disposal, including the cost of any transportation and storage, and such cost shall be recoverable as a civil debt due to the waste disposal authority.”.

### 13. Interpretation and application

Section 20I(1) is amended by adding—

““The Basel Convention” (《巴塞爾公約》) means The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal concluded at Basel in Switzerland on 22 March 1989 as amended from time to time and as applied to Hong Kong;”.

### 14. Applications for and grant of licences

Section 21 is amended—

- (a) in subsection (1), by repealing “the prescribed form” and substituting “such form as the collection authority may specify”;
- (b) in subsection (2), by repealing “the prescribed form” and substituting “such form as the waste disposal authority may specify”;
- (c) in subsection (7), by repealing “section 21(2)” and substituting “subsection (2)”;
- (d) by adding—

“(8) A person who, in or in connection with an application under this section, makes any statement (whether such statement be oral or written), or furnishes any information—

- (a) which is false or misleading in a material particular; and
  - (b) which he knows or reasonably ought to know is false or misleading in such particular,
- commits an offence, and is liable to a fine at level 6.”.

### 15. Circumstances under which waste disposal licence for chemical waste or clinical waste is to be granted

Section 21A is amended by adding “or clinical waste (as the case may be)” after “chemical waste” wherever it appears.

### 16. Effect of licences

Section 22 is amended—

- (a) in subsection (1)—
  - (i) by repealing “, in relation to any area specified therein”;

- (ii) in paragraph (e), by repealing “waste,” and substituting “waste or clinical waste (as the case may be).”;
- (iii) by repealing everything after paragraph (e);
- (b) in subsection (2), by repealing everything after “disposal of” and substituting “waste.”.

## 17. General provisions as to licences

Section 23 is amended—

- (a) by adding—
  - “(1A) Without limiting the general nature of the terms and conditions which the authority may include in a waste collection licence, he may include terms and conditions relating to the matters set out in Schedule 10.
  - (1B) Without limiting the general nature of the terms and conditions which the authority may include in a waste disposal licence, he may include terms and conditions relating to the matters set out in Schedule 11.”;
- (b) in subsection (5)—
  - (i) by repealing “or (ii)”;
  - (ii) by repealing “or consent”;
- (c) in subsection (6), by repealing “(4)” and substituting “(3)”;
- (d) in subsection (7), by repealing “(4)” and substituting “(3)”;
- (e) in subsection (8), by repealing “licence under section 21” and substituting “waste collection licence or waste disposal licence (as the case may be)”.

## 18. Other powers of authorized officers

Section 23D is amended—

- (a) in paragraph (d), by adding “, record or document” after “drawing”;
- (b) in paragraph (e), by repealing “issued thereunder” and substituting “or permit issued or any authorization granted under this Ordinance”;
- (c) in paragraph (h), by repealing everything after “33 to” and substituting “state his name and address and to produce documentary evidence showing the name and address, including an identity card issued under the Registration of Persons Ordinance (Cap. 177), for inspection by the authorized officer.”.

**19. Analysis of samples**

Section 23E(2) is amended—

- (a) by repealing paragraph (a);
- (b) in paragraph (b)—
  - (i) by repealing “each part in a separate” and substituting “the sample in a”;
  - (ii) by repealing “each container” and substituting “the container”;
- (c) in paragraph (c)—
  - (i) by repealing subparagraph (i);
  - (ii) in subparagraph (ii), by repealing “one of the other 2 parts” and substituting “the sample”;
- (d) in paragraph (d)—
  - (i) by repealing “one of the remaining 2 parts” and substituting “the sample”;
  - (ii) by repealing “and retain the other”.

**20. When appeal may be brought**

Section 24(1) is amended by adding—

- “(bc) section 20DA(4)(a) (fixing the conditions of an authorization for disposal of imported waste);
- “(bd) section 20DA(4)(b) (refusing to grant an authorization for disposal of imported waste);”.

**21. Regulations**

Section 33 is amended—

- (a) in subsection (1)—
  - (i) by adding—
    - “(ca) the authorization of any person to provide services for the collection or removal of chemical waste or clinical waste without a licence for that purpose;”;
  - (ii) by adding—
    - “(da) the authorization of any person to use any land or premises for the disposal of chemical waste or clinical waste without a licence for that purpose;”;

- (iii) in paragraph (*ha*), by adding “the equipment to be used,” after “in particular”;
- (iv) by adding—
  - “(haa) (without limiting the generality of paragraph (*ha*)) in relation to clinical waste—
    - (i) the restriction on the class or classes of persons who may deliver or transport clinical waste in prescribed circumstances;
    - (ii) the type and the quantity of clinical waste that may be so delivered or transported;
    - (iii) the requirements to be observed in relation to the delivery or transportation;”;
- (b) in subsection (1A)(a)—
  - (i) in subparagraph (vi)(A), by adding “or clinical waste” after “chemical waste”;
  - (ii) in subparagraph (vii), by repealing “; or” and substituting a semicolon;
  - (iii) by adding—
    - “(ix) to authorize (with or without conditions) any person of a class specified in a regulation made under subsection (1)(ca) to receive clinical waste at such location as the Director may specify in his authorization;
    - (x) to authorize (with or without conditions) any person to collect or remove any chemical waste or clinical waste without a waste collection licence for that purpose if the Director opines that—
      - (A) an emergency involving the waste has arisen; or
      - (B) the circumstances are such that it would not be reasonably practicable to arrange for the waste to be collected or removed by the holder of such a licence; or
    - (xi) to authorize (with or without conditions) any person to use any land or premises for the disposal of any chemical waste or clinical waste without a waste disposal licence for that purpose if the Director opines that—
      - (A) an emergency involving the waste has arisen; or
      - (B) the circumstances are such that it would not be reasonably practicable to use, for the disposal of the waste, any land or premises in respect of which such a licence is in force;”.

## 22. Amendment of Schedules

Section 37(1) and (2) is repealed and the following substituted—

“(1) The Chief Executive in Council may, by notice published in the Gazette, amend the First, Second, Third, Fourth and Fifth Schedules and Schedule 8.

(2) The Director may, by notice published in the Gazette, amend the list of pathogens listed in Group 4 of Schedule 8 and Schedules 10 and 11.

(3) The Secretary may, by notice published in the Gazette, amend—  
 (a) the relevant dates specified in the First, Second and Fifth Schedules;  
 (b) Schedule 9.”.

## 23. Waste to which sections 20A(1)(a) and 20B(1)(a) apply

The Sixth Schedule is amended—

- (a) under the heading of “**GA—Metal and metal-alloy waste in metallic, non-dispersible form**”, by repealing the entry of “GA380”;
- (b) under the heading of “**GG—Other waste containing principally inorganic constituents, which may contain metals and organic material**”—
  - (i) in the entry of “GG040”, by adding “, not elsewhere specified or included” after “ash”;
  - (ii) in the entry of “GG060”, by adding “resulting from the treatment of potable water and processes of the food industry and vitamin production” after “carbon”;
- (c) under the heading of “**GJ —— 紡織品廢物**”, in the entry of “GJ 100”, by repealing “無在他處” and substituting “在他處無”;
- (d) under the heading of “**GM —— 農業食品工業產生的廢物**”, in the entry of “GM 080”, by repealing “無在他處” and substituting “在他處無”;
- (e) under the heading of “**GN—Waste arising from tanning and fellmongery operations and leather use**”, in the entry of “GN040”, by adding “and not containing hexavalent chromium compounds or biocides” before “, excluding leather sludges”.

**24. Waste to which sections 20A(1)(b) and 20B(1)(b) apply**

The Seventh Schedule is amended—

- (a) under the heading of “**AA—Metal bearing waste**”, by adding—
- |        |   |
|--------|---|
| “AA190 | Waste having metal carbonyls as constituents  |
| AA200  | Waste having hexavalent chromium compounds as constituents, not elsewhere specified or included |
| AA210  | Spent electrolytic solutions from copper electrorefining and electrowinning operations          |
| AA220  | Spent etching solutions containing dissolved copper”;   |
- (b) under the heading of “**AB—Waste containing principally inorganic constituents, which may contain metals and organic materials**”—
- (i) in the entry of “AB040”, by adding at the end “, including such waste from any monitor, television and equipment (whether or not the cathode-ray tubes contained in the monitor, television or equipment is intact or broken);
- (ii) by adding—
- |        |   |
|--------|---|
| “AB160 | Coal fired power-plant fly ash containing any substance, matter or thing that renders the fly ash as chemical waste”; |
|--------|---|
- (c) under the heading of “**AC—Waste containing principally organic constituents, which may contain metals and inorganic materials**”, by adding—
- |        |   |
|--------|---|
| “AC280 | Parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles and containing hexavalent chromium compounds or biocides |
| AC290  | Fellmongery wastes containing hexavalent chromium compounds or biocides or infectious substances”;  |

(d) under the heading of “**AD—Waste which may contain either inorganic or organic constituents**”, by adding—

“AD170	Spent activated carbon, not elsewhere specified or included
AD180	Clinical and related wastes; that is wastes arising from dental, medical, nursing or veterinary practice, or similar practices, and wastes generated in hospitals or other facilities during the investigation or treatment of patients, or research projects
AD190	Waste packages and containers containing any substance, matter or thing that renders the packages or containers in question as chemical waste
AD200	Waste consisting of or containing off specification or outdated chemicals that render the waste as chemical waste
AD210	Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on human health and/or the environment are not known
AD220	Chemical waste, not elsewhere specified or included”.

## 25. Schedules 8, 9, 10 and 11 added

The following are added—

## “SCHEDULE 8

[ss. 2 &amp; 37]

## GROUPS OF CLINICAL WASTE

**Group 1—Used or contaminated sharps**

Syringes, needles, cartridges, ampoules and other sharp instruments which have been used or which have become contaminated with any other group of clinical waste.

**Group 2—Laboratory waste**

Unsterilized laboratory stock cultures, or cultures, of infectious agents and potentially infectious waste with significant health risk from dental, medical, veterinary or pathological laboratories.

**Group 3—Human and animal tissues**

All human and animal tissues, organs and body parts as well as dead animals, but excluding dead animals and animal tissues, organs and body parts arising from veterinary sources or Chinese medicine practices.

**Group 4—Infectious materials**

Infectious materials from patients with the following pathogens—  
Crimean/Congo haemorrhagic fever virus (克里米亞／剛果出血熱病毒);  
Ebola virus (伊波拉病毒);  
Guanarito virus (瓜納里托病毒);  
Hendra virus (亨德拉病毒);  
Herpesvirus simiae (B virus) (疱疹 B 病毒);  
Junin virus (呼寧病毒);  
Kyasanur forest disease virus (庫阿撒魯爾森林病毒);  
Lassa fever virus (拉薩熱病毒);  
Machupo virus (馬塞堡病毒);  
Marburg virus (瑪堡病毒);  
Omsk virus (鄂木斯克病毒);  
Russian spring-summer encephalitis virus (俄羅斯春夏季腦炎病毒);  
Sabia virus (薩比亞病毒);  
Severe Acute Respiratory Syndrome Coronavirus (嚴重急性呼吸系統綜合症冠狀病毒);  
Variola virus (天花病毒),  
and materials contaminated by any of such infectious materials.

**Group 5—Dressings**

Surgical dressings, swabs and all other waste dribbling with blood, caked with blood or containing free-flowing blood.

**Group 6—Other wastes**

Other wastes which are likely to be contaminated with—

- (a) infectious materials (other than infectious materials referred to in Group 4); or
  - (b) any clinical waste being substance, matter or thing belonging to Group 1, 2, 3, 4 or 5,
- and which may pose a significant health risk.

## SCHEDULE 9

[ss. 20A &amp; 37]

STATES INCLUDED IN ANNEX VII  
OF THE BASEL CONVENTION

Australia  
Austria  
Belgium  
Canada  
Cyprus  
Czech Republic  
Denmark  
Estonia  
Finland  
France  
Germany  
Greece  
Hungary  
Iceland  
Ireland  
Italy  
Japan  
Latvia  
Liechtenstein  
Lithuania  
Luxembourg  
Malta  
Mexico

The Netherlands  
New Zealand  
Norway  
Poland  
Portugal  
Slovak Republic  
Slovenia  
South Korea  
Spain  
Sweden  
Switzerland  
Turkey  
The United Kingdom of Great Britain and Northern Ireland  
United States of America

## SCHEDULE 10

[ss. 23(1A) &amp; 37]

MATTERS TO WHICH TERMS AND CONDITIONS  
OF WASTE COLLECTION LICENCE MAY RELATE

**1. General**

- (1) The validity period of the licence.

**2. Operation control**

- (1) The types, quantities and sources of waste which may be collected or received.
- (2) The places, or facilities provided by the collection authority or the waste disposal authority, to which waste may be delivered for repackaging, storage, recovery, disposal or export, and times or periods at or during which waste may be so delivered.
- (3) The times during which, and the routes along which, waste may be collected, and the time allowed for such collection.
- (4) The places, times or periods at or during which waste may be received, handled and stored at a collection point.
- (5) The method of disposal of collected waste.
- (6) The arrangements, containers, storage receptacles, vehicles and vessels to be employed or used in the collection, reception, storage, transfer and transportation of waste (including the supervision of their use by the holder of the licence, manning levels, requirements regarding waste handling procedures and the time interval and the manner in which containers or receptacles may be left in a public place).

- (7) Methods of temporary storage of waste if it cannot be delivered to the waste disposal facility within the specified time limit.
- (8) The design, construction, labelling, maintenance, operation, cleansing and disinfection of any container, storage receptacle, plant, equipment, clothing, vehicle or vessel employed or used by the holder of the licence to collect, remove, store, receive and transport waste.
- (9) The standards, practices and restrictions on segregation, packaging, labelling and handling of waste during reception, removal, storage and transportation.
- (10) The arrangements for handling waste that is rejected at a reception point.
- (11) The training and retraining to be provided to persons involved in the collection, reception, storage, transfer and transportation of waste or related operations, and the number of persons and qualifications of persons involved or employed in carrying out the operations concerned.
- (12) The production and revision of, and the compliance with, an operation plan to assure the quality of operation and a satisfactory level of environmental hygiene and pollution control during the collection, reception, storage, transfer and transportation of waste or related operations.
- (13) The documentation that shall accompany each consignment of waste or that shall be carried on any vehicle or vessel which is used for the activities concerned.
- (14) The documentation that shall be issued in respect of each consignment of waste received at a collection point.
- (15) The keeping and preservation of records and the information in specified format to be supplied to the collection authority by the holder of the licence in relation to the activities concerned, including the filling in and keeping and submission to the collection authority of trip tickets issued by the collection authority and the waste disposal authority.

### **3. Safety and insurance**

- (1) The safety equipment and facilities to be provided, maintained and used, and the safety information to be displayed and provided to persons involved or employed in carrying out the operations concerned.
- (2) The personal protective clothing against any potential hazard for all persons engaged in handling waste.

- (3) The amount, validity period and other conditions of any insurance to be taken out to cover injuries to persons or damages to properties that may arise in connection with the collection, reception, storage, transfer and transportation of waste and related operations.
- (4) The drawing up of an emergency plan, the resources to be deployed for dealing with emergency, the reporting of incidents and the actions to be taken in response to an emergency, and the training of staff in respect of response to an emergency.

#### 4. **Pollution control**

- (1) Precautions to be taken to prevent the release of any substance that may cause air pollution or land or water contamination.
- (2) Pollution control and the monitoring of possible emissions including air and noxious pollutants, dust, noise and liquid spillage, leakage, discharge or deposit, and the precautions to be taken to prevent or otherwise mitigate any type of nuisance arising from the collection, reception, storage, transfer and transportation of waste.
- (3) The reporting of any pollution incidents to the collection authority.

#### 5. **Others**

- (1) Other conditions that the collection authority thinks necessary to protect the environment and public health.

### SCHEDULE 11

[ss. 23(1B) & 37]

#### MATTERS TO WHICH TERMS AND CONDITIONS OF WASTE DISPOSAL LICENCE MAY RELATE

##### 1. **General**

- (1) The validity period of the licence.

##### 2. **Operation control**

- (1) The technology or method to be employed for treatment or disposal of waste.

- (2) The types, quantities and sources of waste which may be received, handled, analysed, treated, stored, disposed of or transported.
- (3) The places, times or periods at or during which waste may be received, handled, treated, stored, disposed of or transported.
- (4) The arrangement for the analysis of waste prior to its reception, including the preparation of and the compliance with a waste analysis plan, the requirements for laboratories to be observed for carrying out the analysis, and verification of the analysis results against trip tickets or other records of waste that accompany the waste consignment.
- (5) The arrangements for handling waste and the substances that may result from the licensed operation, including the use, reuse, recycling, storage, disposal or transportation of the waste or such substances.
- (6) The location, design, construction and operation of any receptacles, plant, equipment, vessels or vehicles that may be used in the reception, treatment, storage, disposal or transportation of waste.
- (7) The standards, practices and restrictions on packaging, labelling and handling of waste during reception, treatment, storage, disposal or transportation.
- (8) The cleansing and disinfection of any receptacles, plant, equipment, vessels, vehicles, clothing and places.
- (9) The training and retraining to be provided to persons involved in the waste treatment, disposal or related operations, and the number of persons and qualifications of persons involved or employed in carrying out the operations concerned.
- (10) The production and revision of, and the compliance with, an operation plan to assure the quality of operation and a satisfactory level of environmental hygiene and pollution control during the waste treatment or disposal or related operations.
- (11) Trial runs and testing to be conducted on the waste disposal facility, and the follow-up actions to be taken if any trial run or testing shows any deficiency of the facility in handling and treating waste.
- (12) The keeping and the provision to the waste disposal authority of records in specified format in relation to the types, quantities and sources of waste received, handled, treated, stored, disposed of and transferred out of the reception point, their microbiological, physical and chemical compositions, the persons, vehicles or vessels delivering the waste, the times of reception of waste, the manner, times and places of treatment or

disposal of waste and the substances resulting from the licensed operation. Such records may include trip tickets issued by the collection authority and the waste disposal authority for tracking the movement of waste.

### **3. Site management and maintenance**

- (1) The management and maintenance of the site and its surrounding areas and associated structures, communication equipment and facilities on the site.
- (2) The care and maintenance and security of any equipment and facilities to be used in the operations concerned.
- (3) The management and supervision of the waste treatment or disposal operation and all related activities.

### **4. Safety and insurance**

- (1) The safety equipment and facilities to be provided, maintained and used, and the safety information to be displayed and provided to persons involved or employed in carrying out the operations concerned.
- (2) The personal protective clothing against any potential hazard for all persons engaged in handling waste.
- (3) The amount, validity period and other conditions of any insurance to be taken out to cover injuries to persons or damages to properties that may arise in connection with the waste treatment, recycling, disposal, transfer and related operations.
- (4) The drawing up of an emergency plan, the resources to be deployed for dealing with emergency, the reporting of incidents and the actions to be taken in response to an emergency, and the training of staff in respect of response to an emergency.

### **5. Pollution control**

- (1) The places, times or periods at or during which the emission of air pollutants may take place or the discharge or deposit of matters may be made.
- (2) The rate of discharge or deposit of any pollutants, or any constituent of the pollutants, into the air, the waters, a public sewer or public drain or the total amount in relation to the matter discharged or deposited.

- (3) The nature, composition, colour, temperature, limit or concentration of any substance that may be emitted, discharged or deposited or of the constituents of the substance.
- (4) The treatment of the substance referred to in paragraph (3) before it is emitted, discharged or deposited and the chimney or relevant plant or equipment to be provided, maintained and used therefor.
- (5) Precautions to be taken so that any specified substance may not be discharged or deposited into any specified part of the waters of Hong Kong or any public sewer or public drain.
- (6) Precautions to be taken to prevent the release of any substance that may cause contamination to soil or ground water.
- (7) The places, times or periods at or during which a certain noise level may be generated.
- (8) The plant, equipment and measures to be provided, maintained and used for noise mitigation.
- (9) Precautions to be taken to prevent birds, pest or rodents from feeding on waste on the site.
- (10) Precautions to be taken to prevent or otherwise mitigate any nuisance that may arise from the waste disposal operation.
- (11) The reporting of any pollution incidents to the waste disposal authority.
- (12) Requirements for cleaning up and restoration of the land, premises, drain, water course, foreshore and the sea contaminated by the waste within such time and in such manner as specified by the waste disposal authority.

## 6. **Environment monitoring**

- (1) The equipment and facilities to be provided, and the methods and procedures to be used, for inspecting, sampling or measuring any emission, discharge, deposit or treatment products or any constituents of such products.
- (2) The places, times or frequencies at which samples of substances discharged or deposited, or of treatment products, or of air pollutants (or any materials that may evolve into air pollutants) emitted, are to be taken and analysed for their constituents; and the places, times or frequencies at which other environmental parameters (e.g. noise levels) are to be measured.
- (3) The laboratories that may be employed for carrying out the analyses or measurements referred to in paragraph (2), and the checking and certification of the results of such analyses and measurements by qualified personnel.

- (4) The provision to the waste disposal authority of samples, and of the results of the analyses and measurements referred to in paragraph (2), and the release of related information to the public where appropriate.
- (5) The access of authorized officers to the equipment, facilities and records referred to in this section.

**7. Environmental audit**

- (1) Environmental audit arrangements and requirements, including the checking of environmental control and compliance status of the facility, and the follow-up actions to improve its performance.
- (2) The personnel that may be employed for carrying out the environmental audit referred to in paragraph (1), and the checking and certification of the results of such audit by qualified personnel.
- (3) The provision of the result of, and any related information on, the environmental audit to the waste disposal authority and the release of such result and records to the public where appropriate.

**8. Record keeping and reporting**

- (1) Record keeping arrangements (including the types, locations and duration of records to be kept) and reporting arrangements (including the types, frequency, details and number of copies of reports) relating to the facility's operation and management.

**9. Site Restoration**

- (1) Requirements for the restoration, remediation and maintenance of the site before and after the closure of the waste disposal facility.
- (2) The continual pollution control referred to in section 5 after termination of the operations.
- (3) The continual environmental monitoring referred to in section 6 after termination of the operations.

**10. Others**

- (1) Other conditions that the waste disposal authority thinks necessary to protect the environment and public health.”.

## Consequential Amendments

### Waste Disposal (Chemical Waste) (General) Regulation

#### 26. Director to issue trip ticket

Section 20 of the Waste Disposal (Chemical Waste) (General) Regulation (Cap. 354 sub. leg. C) is amended, by repealing “簽發” and substituting “發出”.

### Waste Disposal (Permits and Licences) (Forms and Fees) Regulation

#### 27. Title amended

The title to the Waste Disposal (Permits and Licences) (Forms and Fees) Regulation (Cap. 354 sub. leg. D) is amended by repealing “FORMS AND”.

#### 28. Sections repealed

Sections 2 and 3 are repealed.

#### 29. Schedule 1 repealed

Schedule 1 is repealed.

#### 30. Fees

Schedule 2 is amended—

(a) in item 1—

(i) by repealing “referred to in section 21(1) of the Ordinance”;

(ii) in paragraphs (a)(i) and (b)(i), by adding “under section 21(1) of the Ordinance” after “licence”;

(b) in item 2—

(i) by repealing “referred to in section 21(2) of the Ordinance”;

(ii) in paragraphs (a)(i) and (b)(i), by adding “under section 21(2) of the Ordinance” after “licence”.

### Explanatory Memorandum

The main purposes of this Bill are to amend the Waste Disposal Ordinance (Cap. 354) (“the Ordinance”) to—

- (a) extend the application of the Ordinance to clinical waste to enable regulatory control to be introduced over the collection, transportation and disposal of clinical waste;
- (b) give effect to the international ban on the export of hazardous waste from some developed countries (“The Basel Ban”), and to ensure that the import or export of certain kinds of waste will not be in breach of Hong Kong’s obligations under The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (“The Basel Convention”); and
- (c) strengthen the control of the disposal of imported waste.

2. Clause 1 specifies the short title of the Bill and provides for the commencement of its provisions.

3. Clause 2 adds the definitions of “clinical waste” and “designated waste disposal facility” to section 2(1) and amends certain definitions accordingly.

4. Clause 3 adds new section 9A so that the Director of Environmental Protection as collection authority (“the Director”) may provide services for the collection and removal of chemical waste or clinical waste in special circumstances.

5. Clause 4 repeals section 10(2) since the terms and conditions that may be attached to a waste collection licence are set out in the new Schedule 10. It also amends section 10(5) to include clinical waste as waste for the collection or removal of which a licence may be granted by the Director.

6. Clause 5 replaces the existing section 11 with the new section 11 to tie in with section 10(5) as so amended. The new section 11(1) substantially reproduces the existing section 11. In relation to chemical waste and clinical waste, the prohibition under the new section 11(2) does not apply to any person who is licensed under section 10(5) or authorized pursuant to any regulation made under the new section 33(1)(ca) (c.f. clause 21(a)).

7. Clause 6 adds a new paragraph to section 16(2) so that the prohibition under section 16(1) does not apply to the use of any land or premises for the disposal of chemical waste or clinical waste by a person who is authorized pursuant to any regulation made under the new section 33(1)(da) (c.f. clause 21(b)). It also amends section 16(4) to exclude clinical waste from the exemption in that subsection.

8. Clause 7 raises the level of fine for an offence under section 19(2) to level 6 (i.e. \$100,000).
9. Clause 8 amends section 20A(4). The newly added section 20A(4)(e) gives effect to The Basel Ban, while the newly added section 20A(4)(f) ensures that the issue of an import permit would not be in breach of Hong Kong's obligations under The Basel Convention.
10. Clause 9 amends section 20B(4) to ensure that the issue of export permit would not be in breach of Hong Kong's obligations under The Basel Convention.
11. Clause 10 adds a new section 20DA to provide that the disposal of imported waste (as referred to in section 20DA(1)) at a designated waste disposal facility requires an authorization granted by the Director as the waste disposal authority. It also specifies the application procedure. Section 20DA(5) sets out the basic requirements to be met before the Director may consider granting an authorization.
12. Clause 11 introduces to section 20E new offences in relation to the new section 20DA.
13. Clause 12 amends section 20F as a consequence of the inclusion of new offences to section 20E. It also enables the Director to require information and documents from a convicted person to show the compliance of the requirements made by the Director pursuant to section 20F(1)(b).
14. Clause 13 adds new definition to section 20I(1), which sets out various definitions for the purposes of Part IVA ("Control of movement of waste into and out of Hong Kong") of the Ordinance.
15. Clause 14 amends section 21(1) and (2) so that a person who wishes to apply for a waste collection licence or waste disposal licence shall apply to the appropriate licensing authority in such form as the authority may specify. The newly added section 21(8) criminalizes the act of providing false or misleading information in relation to such an application.
16. Clause 15 amends section 21A so that a waste disposal licence shall not be granted for clinical waste unless the licensing authority is satisfied that the waste disposal facility concerned complies with requirements specified in the regulations.
17. Clause 16 amends section 22 to provide that a waste collection licence may authorize the collection and removal of clinical waste. It also contains technical amendments to section 22.

18. Clause 17 adds a new section 23(1A) and (1B), which enables description of the matters to which the terms and conditions of a waste collection licence or waste disposal licence may relate. Such matters are described in the new Schedules 10 and 11. It also contains technical amendments to section 23.

19. Clause 18 amends section 23D to confer additional powers on authorized officers to facilitate the execution of their duties under the Ordinance.

20. Clause 19 amends section 23E(2) to eliminate the requirement of dividing the sample of waste or other matter into 3 parts.

21. Clause 20 amends section 24(1) to provide that any person aggrieved by a decision of the Director to grant or refuse to grant an authorization under the new section 20DA, or his decision relating to the conditions of such an authorization, may appeal to the Appeal Board.

22. Clause 21 amends section 33 to expand the regulation making power under the Ordinance—

(a) clause 21(a) amends section 33(1) to add a new section 33(1)(ca), (da) and (haa)—

(i) the new section 33(1)(ca) and (da) enables regulations to be made to prescribe the circumstances in which authorization may be given to a person to collect or remove chemical waste or clinical waste without a waste collection licence, or to use any land or premises for the disposal of chemical waste or clinical waste without a waste disposal licence;

(ii) the new section 33(1)(haa) enables regulation to be made to provide for, in relation to clinical waste, the restriction on the class or classes of persons who may deliver or transport any clinical waste, as well as the type and quantity of clinical waste and other requirements in relation to the delivery or transportation;

(b) clause 21(b) amends section 33(1A) to add 3 new subparagraphs—

(i) the new section 33(1A)(a)(ix) provides that the regulation may empower the Director to authorize certain persons to receive clinical waste at certain locations even if they do not have waste collection licences for that purpose;

(ii) the new section 33(1A)(a)(x) and (xi) makes clear, in relation to the regulation making power under the new paragraphs (ca) and (da) of section 33(1), that the regulation may empower the Director to give the authorization referred to in those paragraphs under certain circumstances;

(c) clause 21(b)(i) amends section 33(1A)(a)(vi)(A) to extend its application to clinical waste.

23. Clause 22 amends section 37 to provide for the amendment of the new Schedules 8, 9, 10 and 11.

24. Clause 23 adds several kinds of waste into the Sixth Schedule and amends certain references to achieve consistency in expression.

25. Clause 24 adds several kinds of waste into the Seventh Schedule.

26. Clause 25 adds the new Schedules 8, 9, 10 and 11. Schedule 8 sets out the various groups of substances, matters or things in relation to the definition of “clinical waste”. Schedule 9 lists out the countries to which The Basel Ban applies pursuant to the new section 20A(4)(e). Schedules 10 and 11 describe the matters to which the terms and conditions of a waste collection licence or waste disposal licence may relate.

27. Clauses 26 to 30 contain consequential and minor amendments to the Waste Disposal (Chemical Waste) (General) Regulation (Cap. 354 sub. leg. C) and the Waste Disposal (Permits and Licences) (Forms and Fees) Regulation (Cap. 354 sub. leg. D).