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Paper for the House Committee meeting on 17 December 2004

**Report of the Subcommittee on
Waste Disposal (Designated Waste Disposal Facility)
(Amendment) Regulation 2004 and
Waste Disposal (Charges for Disposal of Construction Waste) Regulation**

Purpose

This paper reports on the deliberations of the Subcommittee on Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 and Waste Disposal (Charges for Disposal of Construction Waste) Regulation.

Background

2. In July 2004, the Waste Disposal (Amendment) (No. 2) Bill 2003 (Amendment Bill) was passed by the Legislative Council to strengthen the control against illegal disposal of waste and provide the statutory basis for the making of regulations for introducing a charging scheme for the disposal of construction waste at landfills, sorting facilities and public fill reception facilities. During the scrutiny of the Amendment Bill, the Bills Committee formed to study the Bill noted that details of the charging scheme were to be set out in two regulations to be made after passage of the Amendment Bill. Having regard to the trade's concern about the implementation of the charging scheme, the Bills Committee also examined issues relating to the charging mechanism and put forward suggested amendments to the provisions of the draft regulations.

Regulations

3. On 3 November 2004, the Government tabled the two Regulations, namely the Waste Disposal (Designated Waste Disposal Facility (Amendment) Regulation 2004 (referred to as the DWDF Regulation) and the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (referred to as the Charging Regulation), at the Legislative Council.

4. The DWDF Regulation sets out the related powers for the Director of Environmental Protection (DEP) to implement the charging scheme in government waste disposal facilities.

5. The Charging Regulation introduces a charging scheme for the disposal of construction waste at government waste disposal facilities. It replaces the current Waste Disposal (Charges for Disposal of Waste) Regulation (Cap. 354 sub. leg. K) which was made in 1995 but has not been brought into force.

The Subcommittee and its deliberations

6. At the House Committee meeting on 5 November 2004, Members agreed to form a Subcommittee to study the Regulations. Miss CHOY So-yuk was elected as Chairman of the Subcommittee. The membership list of the Subcommittee is in **Appendix I**. As the study of the Regulations was not expected to be completed within the normal scrutiny period on 1 December 2004, Miss CHOY moved and the Council passed a motion to extend the scrutiny period to 5 January 2005 at the Council meeting on 1 December 2004. The Subcommittee held six meetings. Apart from examining the Regulations with the Administration, the Subcommittee also invited views from the trade and related sectors. 14 groups submitted written and/or oral representations to the Subcommittee. A list of these groups is in **Appendix II**. The Subcommittee also conducted a visit to the South East New Territories (SENT) Landfill on 30 November 2004 to observe the mock operation of the charging scheme.

7. At its first meeting on 12 November, 2004, the Subcommittee recapped the issues identified by the then Bills Committee for detailed examination when the Regulations were in place. According to the Administration, the two proposed Regulations had duly taken into account the concerns of the trade and made suitable modifications to the charging mechanism and other related issues, as follows -

Payment arrangements

- (a) on-site payment has been removed so that all the charges will be paid through billing accounts;
- (b) additional provisions are included to set out clearly the arrangements for seeking the approval of DEP for the use of vessels to deliver construction waste to the public fill reception facilities;

Penalty level

- (c) daily fine for failure of a main contractor who undertakes construction work valued \$1 million or above to apply for a billing account has been reduced from \$5,000 to \$1,000. The period within which the application for a billing account should be made has been extended from 14 days to 21 days; and
- (d) penalty for failure to inform DEP of any change in the information in relation to a billing account by an account holder has been revised from a fine at level 5 to revocation of the billing account.

8. In examining the two proposed Regulations, the Subcommittee has made reference to the views of interested parties and the trades on the new arrangements, and further examined the practicality of such arrangements as well as other technical and legal issues, which are to be explained in this report.

Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004

9. The DWDF Regulation stipulates the types of construction waste to be accepted at designated waste disposal facilities, and sets out in Schedule 2 the facilities available for the disposal of the various types of construction waste, as follows -

Designated waste disposal facility	Type of construction waste to be accepted
Landfills	Construction waste containing not more than 50% by weight of inert construction waste ¹ .
Outlying islands refuse transfer facilities	Construction waste containing any percentage of inert construction waste.
Sorting facilities	Construction waste containing more than 50% by weight of inert construction waste.
Public fill reception facilities	Construction waste consisting entirely of inert construction waste

10. The Subcommittee noted the concern of the trade over the operational difficulties associated with the differentiation of inert and non-inert construction waste as well as the determination of waste content. In this respect, the Administration assured the Subcommittee that clear and objective guidelines on the differentiation between inert and non-inert construction waste would be drawn up. These guidelines would be presented to the Tripartite Working Group² (TWG) before use. As regards the determination of waste content, the Administration carried out a survey to ascertain the relation between the inert content and the weight of the waste load. According to the findings in this survey, for the range of inert content between 45% and 55%, the corresponding "Net Weight/Permitted Gross Vehicle Weight" (Net Wt/GVW) of a vehicle would be about 9% to 20%. On this basis, a dividing line for acceptance of waste at landfills or sorting facilities was initially set at 20% Net Wt/GVW. In other words, if the Net Wt/GVW of a vehicle was greater than

¹ Inert construction waste is defined in Schedule 5 of the Waste Disposal (Charges for Disposal of Construction Waste) Regulation as rock, rubble, boulder, earth, soil, sand, concrete, asphalt, brick, tile, masonry or used bentonite.

² The Tripartite Working Group comprises representatives from the construction industry, waste haulers and the waste facility operators

20%, it would be allowed to enter the sorting facility for waste disposal. Similarly, if the Net Wt/GVW of a vehicle was lower than 20%, it would be allowed to enter the landfill for waste disposal. No reference to the weight of the truckload was needed for public fill reception facilities as they would only accept 100% inert construction waste. To illustrate the inert content percentage of a waste load for a certain weight, a preliminary reference table was worked out. Trade representatives were invited to the SENT Landfill to ascertain the applicability of the reference table. An explanatory note on the reference table is in **Appendix III**.

11. The Subcommittee considered that an empowering provision should be included in the Regulation to provide the legal basis for DEP to determine the inert construction waste content according to the criteria set out in the reference table for avoidance of disputes. Consideration should also be given to incorporating criteria as part of the legislation in the long run having regard to their significance. In this respect, the Administration was of the view that it might not be desirable to include the criteria as part of the legislation because these had yet to be finalized taking into account the trade's comments and would be subject to regular review after the implementation of the Scheme. Members therefore agreed that the criteria should not be included in the DWDF Regulation. Nevertheless, the Administration agreed to move a motion to amend the DWDF Regulation to the effect that DEP should give notice in the Gazette of the criteria adopted from time to time to determine whether any waste fell within a type of construction waste in Schedule 2. Such a notice, however, was not subsidiary legislation.

12. The Subcommittee found that if the relevant notice to be published by DEP was not subsidiary legislation, it would be difficult to keep track of any changes in the criteria. Members therefore requested that the Secretary for the Environment, Transport and Works should give an undertaking in her speech at the Council meeting when moving the motion to amend the DWDF Regulation that any changes to the criteria had to be discussed with TWG. The role of TWG should also be explained in her speech.

13. Members also explored with the Administration measures to address the concern expressed by waste haulers that their vehicles might be turned away by whatever waste disposal facilities they went to on grounds that the waste content failed to comply with the type of waste to be accepted at the specific facilities. The Administration explained that every vehicle arriving at the weighbridge of a designated waste disposal facility would have to be weighed and checked in accordance with the criteria as set out in the reference table. If it was found that the inert construction waste content did not comply with the specified type of construction waste to be accepted by the waste disposal facility, the waste hauler would be given a receipt showing the reason for rejection and the appropriate waste disposal facility where the waste shall be accepted for disposal. No vehicles would be rejected more than once.

14. The Subcommittee also pointed out to the Administration the trades' concern about the problem of queuing at the gates of waste disposal facilities after the implementation of the charging scheme. According to the Administration,

contingency measures would be put in place to regulate traffic at the designated waste disposal facilities.

Waste Disposal (Charges for Disposal of Construction Waste) Regulation

15 From the representations submitted by deputations, the Subcommittee noted that much of the concerns about the Charging Regulation were related to the level of disposal charges, the operation of billing accounts, particularly the requirement for deposit, and exemption accounts etc.

Level of disposal charges

16. Schedules 1 to 4 to the Charging Regulation set out the charges for prescribed reception facilities, as follows -

Designated waste disposal facility	Charge payable
Landfills	\$125 per tonne
Outlying islands refuse transfer facilities	\$12.5 per 0.1 tonne
Sorting facilities	\$100 per tonne
Public fill reception facilities	\$ 27 per tonne

In examining the bases adopted by the Administration in arriving at the various charging rates, members noticed that all construction waste generated in outlying islands was to be handled at outlying islands refuse transfer facilities and subject to the rate of \$125 per tonne. They pointed out that there might be circumstances where the waste loads contained 100% inert materials which should be charged at \$27 per tonne. They therefore questioned the basis upon which the disposal charge of \$125 per tonne for outlying islands refuse transfer facilities was arrived at.

17. According to the Administration, refuse transfer facilities on outlying islands were established for the collection of municipal solid waste and were very small set ups. Wastes collected thereat were transported in containers to the West New Territories Landfill for disposal. The cost of disposal would be \$125 per tonne. Under normal circumstances, only very little construction waste was generated on outlying islands. To save the local residents from having to transport the small quantities of construction waste to other designated waste disposal facilities, a decision was taken to allow such wastes to be disposed of at refuse transfer facilities on outlying islands. (Other refuse transfer facilities do not accept construction waste.) Besides, it was not economical to establish special waste disposal facilities on outlying islands for collection of construction wastes. Such facilities would tip the balance in the cost recovery formula and cause unfairness to other users. In view of the relatively small amount of construction waste generated by residents on the outlying islands, the scale used to measure the applicable charge was thus adjusted to \$12.5 per 0.1 tonne. Where larger quantities were involved, the usual practice was

for the local contractors to take the waste away by boat which would in turn be taken to public fill reception areas by vehicles and charged at \$27 per tonne.

Charging mechanism

Billing account

18. One of the major concerns expressed by the trades, in particular waste haulers, during the scrutiny of the Amendment Bill was the payment arrangement. The Administration took on board the suggestion of payment through billing accounts instead of on-site payment. Under the Charging Regulation, all disposal charges shall be paid through a billing account. A person may apply to establish a billing account by making an application to DEP in writing and in the specified form. However, a main contractor who undertakes construction work with a value of \$1 million or above under a contract that has been awarded on or after the commencement of section 9 is required under that section to, within 21 days after being awarded the contract, make an application to DEP to establish a billing account solely in respect of that contract.

19. According to the Administration, the purposes of section 9 are to ensure that the main contractor will not shift his responsibility for payment of disposal charges to sub-contractors, in particular waste haulers, and to monitor the waste to be produced from the specific contract worth \$1 million or above. However, as some of the trade representatives expressed concern about the administrative cost to be incurred if they were required to manage a number of billing accounts for contracts with a value of \$1 million or above and contracts with a value of less than \$1 million, consideration had been given to allowing an account-holder of a billing account for contract with a value of \$1 million or above to use the account to cover other contracts with value of less than \$1 million.

20. Members could not accept the proposed arrangement as this ran contrary to the spirit of section 9 which provides that a billing account is to be set up solely in respect of a contract with a value of \$1 million or above. It also defeated the intended purposes of setting up a designated billing account to monitor the amount of waste to be produced from a specific project worth \$1 million or above and avoid the shifting of the responsibility for payment of disposal charges from the main contractor to subcontractors. Besides, it would create differential treatments to contractors. Small and medium enterprises (SMEs) who were not likely to secure contracts with a value of \$1 million or above would not be able to benefit from this arrangement.

21. Members therefore urged the Administration to discuss with the trades again. In this regard, the Administration held a meeting with the trades on 6 December 2004 during which the trades agreed that an account set up under a contract with a value of \$1 million or above would not be used to settle charges arising from other contracts with a value of less than \$1 million. The Administration therefore proposed to amend the Regulation to make it clear that the account in respect of that specific contract could not be used to settle charges arising from other contracts. The Administration had also taken on board members' suggestion of imposing a condition

on the establishment of an account for contract with a value of \$1 million or above to require the account-holder to notify DEP when the account was no longer required. It was hoped that such a condition together with the proposed amendment and the penalty provision governing the use of billing account for contract with a value of \$1 million or above under section 9(8) would help safeguard against possible abuse of the billing account.

Deposit

22. Under the proposed billing account arrangement, deposit will not be payable when a billing account is set up but payable on the issue of chits prior to the disposal of construction waste at designated reception facilities. An account-holder has to apply for chits as a means of recording and identifying the billing account for the disposal of construction waste by his appointed waste hauler(s). Each chit will enable one truckload of waste to be disposed of and charged to the account-holder's account. As the quantities of construction waste to be disposed of by different account-holders will vary significantly, it is not possible to pre-determine a fixed deposit level. In this connection, the amount of deposit is to be determined according to the number of chits required which is indicative of the volume of waste that needs to be disposed of. Taking into account the average of the median pay loads at the three types of waste disposal facilities, the Administration intended to set the deposit at \$350 for every chit applied for.

23. The Subcommittee noted that the trades, in particular SMEs, had grave concern about the deposit requirement, which in their view would not only increase their administrative cost but also create financial hardship as the high level of deposit at \$350 per chit would hold up their capital, in particular for large-scale projects where a large number of chits would be required, thereby giving rise to cash flow problems. The Administration explained that with the removal of on-site payment, all charges had to be paid through billing accounts. Therefore, such payments were on credit for services already provided for, and the deposit requirement was only meant to be a form of security for payment of disposal charges. This would be in line with other public utilities such as electricity, water and gas where a deposit was payable before services could be provided. Account-holders would be charged at the end of the payment cycle according to the amount and types of waste being disposed of at the designated waste disposal facilities at the prescribed rates through their billing accounts.

24. In view of the trades' concern, members considered it necessary for the Administration to discuss with the trades again with a view to reaching consensus on a revised level of deposit. The Administration then held two meetings with the trades and worked out a two-tier system for deposits for billing accounts. Under the revised arrangement, the deposit for billing accounts for contracts with a value of \$1 million or above would be charged at a minimum of \$15,000 for 200 chits. Additional deposit on a pro-rata basis would be paid if additional chits were required. For billing accounts for contracts with a value of less than \$1 million, the deposit would be charged at \$300 instead of \$350 per chit. The method of calculation is in **Appendix IV**.

25. Members however expressed concern about the differential treatment between billing accounts for contracts with a value of \$1 million or above and those for contracts with a value of less than \$1 million, which in their view might be open to abuse. They pointed out that there might be circumstances where account-holders of billing accounts for contracts with a value of \$1 million or above might use the chits for these specific contracts to cover waste loads arising from contracts with a value of less than \$1 million, thereby obviating the need to pay the required deposit of \$300 per chit. To remove the inequality, some members suggested to the Administration to apply a flat rate of deposit to all billing accounts. According to the Administration, it might not be appropriate to alter the proposed two-tier system now as this had been agreed to by the trades. Nevertheless, it undertook to review the two-tier system as well as the feasibility of applying a flat rate of deposit in the context of the review of the Scheme to be conducted six months after its implementation.

26. Section 10(5) provides that DEP shall refund to an account-holder the deposit or the balance if he is of the opinion that the deposit is no longer required. Members held the view that an account-holder should be allowed to make a request for refunding of the deposit or part of it if he considered the account was no longer required. The Administration took on board members' view and would move a motion to amend that section such that DEP might, on his own initiative or at an account-holder's request, refund to the account-holder the deposit or part of it if DEP was satisfied that the deposit or that part was no longer required.

Payment cycle

27. Under section 18, DEP shall issue to a holder of a billing account a notice of demand in writing specifying the amount of disposal charges incurred by him on that account. The account holder shall pay to DEP the specified amount within 30 days from the date of the notice. If the account holder fails to make payment as required, he is liable to pay a 5% surcharge of the unpaid amount. The trades had found the 30 days payment period too short, and requested for a longer payment period to ease the concern of cash flow problem in the event of default in payment by their clients.

28. Following further discussion with the Subcommittee and after consulting the trades, the Administration agreed to extend the payment period from 30 days to 45 days (counting from the date of the payment demand note issued by DEP at the end of each billing month).

Exemption account

29. One other concern expressed by the trades is the exclusion of contracts for which tenders have been submitted but not awarded from establishing an exemption account. Under section 7, if DEP is satisfied that the construction waste intended to be delivered by a person or on his behalf to a prescribed facility for disposal is generated from construction work undertaken under a contract that has been awarded before the commencement of the Regulation, he may, on application, give approval for that person to establish an exemption account solely in respect of that contract.

30. The Subcommittee noted that in the case of contractors who had submitted tenders for contracts long before the commencement of the Regulation, disposal charges might not have been included in the tenders. If the contractors concerned were not eligible for the exemption, they might suffer financial losses. At members' request and following consultation with the trades, the Administration agreed to extend the exemption to cover contracts with closing date for submission of tenders earlier than the commencement of section 7.

Contract

31. In section 2 of the Charging Regulation, the term "contract" means a contract in writing.

32. Members were of the view that not all projects had a written contract, in particular those small-scale projects such as renovation projects which might have only quotations or receipts for purchase of materials. Without a written contract, it would be difficult for the contractors concerned to apply for a billing account or an exemption account. According to the Administration, there was practical difficulty in enforcing the main contractors' duty to apply for a billing account under section 9 without the basis of written documents. The only practical and effective means was to rely on written contract to assess the value of construction work, otherwise the enforcement work would not be manageable. Nevertheless, the Administration took note of members' concern about the difficulty of small contractors and agreed to amend the definition of "contract" to include contracts supported by sufficient written evidence.

33. The Subcommittee noted that many SMEs, in particular one-person companies, might have yet to recognize the effect of the charging scheme on their business. The Administration explained that Environmental Protection Department (EPD) had contacted small renovation contractors through telephone surveys, and that prior to implementation of the charging scheme, publicity and education programmes would be conducted to widely publicize the charging scheme. EPD would also provide advice to the relevant parties, including small renovation contractors, to assist them in complying with the legal requirements. Moreover, a dry run involving the trades would be conducted prior to implementation of the charging scheme.

Delivery of construction waste to public fill reception facility by vessels

34. Section 11 provides that DEP may, on application by an account holder, approve a steel lighter or steel hopper barge to be used as a vessel for delivering inert construction waste to a public fill reception for disposal. Section 12 provides that on approving the vessel, DEP shall determine the maximum load of the vessel for the purpose of calculating the public fill charge applicable to it.

35. In this connection, members had doubt on the capability of the Administration in ascertaining the waste content if the waste was to be carried out by a steel hopper barge which unloaded the waste through its open bottom. Members therefore urged the Administration to examine the procedures for the delivery of construction waste to

public fill reception facilities by vessels during the first six months of the implementation period, in particular the ways to determine the waste content of each load and review the effectiveness of these measures.

Other issues

36. The Subcommittee examined the technical aspect of the two Regulations such as the definition of construction waste as well as the application, conditions of use and revocation of billing accounts etc.

37. The Subcommittee also noted that apart from the two Regulations, deputations had also put forward valuable views on various issues, including the need to step up publicity on the effect of the charging scheme, strengthen enforcement against illegal dumping of construction waste as well as formulate effective strategies on waste reduction, recycling and reuse.

Amendments

38. The Administration will move motions to amend the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 and the Waste Disposal (Charges for Disposal of Construction Waste) Regulation. A copy of the draft resolutions is at **Appendix V**.

Conclusion

39. The Subcommittee considers that all aspects of the two proposed Regulations have been fully deliberated. It would be for individual Members to decide whether or not to support the Regulations.

Advice sought

40. Members are invited to note the deliberations of the Subcommittee.

Prepared by
Council Business Division 1
Legislative Council Secretariat
16 December 2004

**Subcommittee on
Waste Disposal (Designated Waste Disposal Facility)
(Amendment) Regulation 2004 and
Waste Disposal (Charges for Disposal of Construction Waste) Regulation**

Membership list

Chairman Hon CHOY So-yuk

Members Hon LEE Cheuk-yan
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon KWONG Chi-kin

(Total : 10 Members)

Clerk Miss Becky YU

Legal Adviser Mr Stephen LAM

Date 12 November 2004

Appendix II

List of organizations which have made written and/or oral representations to the Subcommittee

- (a) Advisory Council on the Environment
- (b) Contractor's Authorised Signatory Association Ltd
- (c) Environmental Contractors Management Association
- (d) Hong Kong Construction Association
- (e) Hong Kong Construction Sub-Contractors Association
- (f) Hong Kong Dumper Truck Drivers Association
- (g) Hong Kong General Building Contractors Association
- (h) Hong Kong General Chamber of Commerce
- (i) Hong Kong Institution of Engineers
- (j) Hong Kong Waste Disposal Industry Association
- (k) Hong Kong Waste Management Association
- (l) Motor Transport Workers General Union
- (m) Real Estate Developers Association of Hong Kong
- (n) Working Group on Construction Waste, Provisional Construction Industry Co-ordination Board

Draft reference table for determining the content of waste at landfills, sorting facilities and public fill reception facilities

The waste acceptance criteria of the three types of construction waste disposal facilities are as follow -

- (a) Landfills – to receive mixed construction waste with not more than 50% inert content;
- (b) Sorting Facilities – to receive mixed construction waste with more than 50% inert content; and
- (c) Public fill reception facilities – to accept pure inert public fill.

A survey had been carried out to determine the relation between the inert content and the weight of the waste load. It was found that for the range of inert content between 45% and 55%, the corresponding “Net Weight/ Permitted Gross Vehicle Weight of a vehicle” (Net Wt/GVW) would be about 9-20%.

We initially consider that the dividing line for acceptance of waste at landfills or sorting facilities should be set at 20% Net Wt/ GVW (i.e. inert content of the waste load is not less than 50%). If the “Net Wt/GVW” of a vehicle is greater than 20%, it will not be allowed to enter the landfill for waste disposal. Similarly, if the “Net Wt/GVW” of a vehicle is smaller than 20%, it will not be allowed to enter the sorting facilities. Some examples are shown below -

Gross vehicle weight of vehicles (GVW)	Net Weight of Waste load (Net Wt) (tonnes)	In-weight of the vehicle carrying a waste load with more than 50% inert content (i.e. 20% Net Wt/GVW) (tonnes)
10 tonnes	2	8
16 tonnes	3.2	13.2
24 tonnes	4.8	18.8
30 tonnes	6	24

For example, if the in-weight of a vehicle of 24 tonnes GVW is greater than 18.8 tonnes, the vehicle will be refused to enter the landfill for waste disposal.

For public fill reception facilities, as these facilities will only accept 100% inert construction waste, visual inspection is sufficient to differentiate inert and non-inert construction wastes. No reference to the weight of the truckload is needed for determining whether the truckload should be accepted.

Calculation of deposit amount for each chit

Median vehicle load at Public Fill Reception Area (PFA) = 11.54 tonnes

Median vehicle load at landfill = 3.96 tonnes

Estimated Median vehicle load at sorting facilities = $(11.54 + 3.96)/2 = 7.75$ tonnes

Assuming the distribution of Construction Waste after implementation of charging are
80% to PFA

10% to Sorting Plant

10% to Landfill

Weighted average charge for one vehicle load:

PFA	$11.54 \times \$27 \times 0.8$	= \$249
Sorting Facility	$7.75 \times \$100 \times 0.1$	= \$ 78
Landfill	$3.96 \times \$125 \times 0.1$	= <u>\$ 50</u>
Total		= \$377
	say,	= <u><u>\$350</u></u>

Revised deposit for each chit

Assuming that 100% of vehicles carry inert materials to be disposed of at PFA, the charge for each vehicle load:

$$11.54 \times \$27 = \$311.58$$

say, = \$300

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

WASTE DISPOSAL (DESIGNATED WASTE DISPOSAL FACILITY)
(AMENDMENT) REGULATION 2004

Resolution made and passed by the Legislative Council under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) on 2004.

RESOLVED that the Waste Disposal (Designated Waste Disposal Facility)(Amendment) Regulation 2004, published in the Gazette as Legal Notice No. 165 of 2004 and laid on the table of the Legislative Council on 3 November 2004, be amended -

(a) in section 3, in the new section 3A, by adding -

"(3) The Director shall give notice in the Gazette of the criteria adopted from time to time to determine, for the purposes of subsections (1) and (2), whether any waste falls within a type of construction waste specified in column 3 of Schedule 2.

(4) A notice under subsection (3) is not subsidiary legislation."

(b) in section 4(7), in the new section 4(4A)(c), by adding "temporarily" after "close".

Clerk to the Legislative Council

2004

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General
Clauses Ordinance (Cap. 1))

WASTE DISPOSAL (DESIGNATED WASTE DISPOSAL FACILITY)
(AMENDMENT) REGULATION 2004

RESOLVED that the Waste Disposal (Designated Waste Disposal
Facility)(Amendment) Regulation 2004, published in the
Gazette as Legal Notice No. 165 of 2004 and laid on the
table of the Legislative Council on 3 November 2004, be
amended -

(a) in section 3, in the new section 3A, by adding -

“(3) The Director shall give notice in
the Gazette of the criteria adopted from time
to time to determine, for the purposes of
subsections (1) and (2), whether any waste
falls within a type of construction waste
specified in column 3 of Schedule 2.

(4) A notice under subsection (3) is not subsidiary legislation.”;

(b) in section 4(7), in the new section 4(4A)(c), by adding “temporarily” after “close”.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

WASTE DISPOSAL (CHARGES FOR DISPOSAL OF CONSTRUCTION
WASTE) REGULATION

Resolution made and passed by the Legislative Council under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) on 2004.

RESOLVED that the Waste Disposal (Charges for Disposal of Construction Waste) Regulation, published in the Gazette as Legal Notice No. 166 of 2004 and laid on the table of the Legislative Council on 3 November 2004, be amended -

(a) in section 2, by repealing the definition of "contract" and substituting -

"contract" (合約) means a contract in writing or a contract supported by sufficient evidence in writing;"

(b) in section 3(4)(c), by adding "all" before "the conditions of use";

(c) by repealing section 7(1) and substituting -

"(1) If the Director is satisfied that the construction waste intended to be delivered by a person or on his behalf to a prescribed facility for disposal is generated from construction work undertaken under a contract, the Director may, on application, give approval for that person to establish an exemption account solely in respect of that contract if -

(a) that contract has been awarded before the commencement of this section; or

(b) the closing date (if any) for submitting a tender for that contract is earlier than the commencement of this section.";

(d) by repealing section 9(2) and substituting -

"(2) Where the Director has approved the application to establish a billing account solely in respect of that contract, the main contractor shall ensure that -

(a) that billing account is used for paying any prescribed charge payable in respect of construction waste generated from construction work

undertaken under that contract;
and

(b) that billing account is not used for paying any prescribed charge payable in respect of any other construction waste.”;

(e) in section 10 -

(i) by repealing subsections (4) and (5) and substituting -

“(4) The Director shall refund to an account-holder the deposit or, if it has been applied under subsection (3), the balance (if any) -

(a) upon the closure, at the account-holder’s request, of the billing account; or

(b) upon the revocation of the billing account.

(5) The Director may, on his own initiative or at an account-holder’s request, refund to the account-holder the deposit or part of it if the Director is satisfied

that the deposit or that part is no longer required.”;

(ii) by renumbering subsection (6) as subsection (7);

(iii) by adding -

“(6) In making a decision under subsection (5), the Director shall have regard to the factors that he considers relevant to the use of the billing account, including the amount of construction waste that the account-holder proposes to dispose of at any prescribed facility.”;

(f) in section 18(2), by repealing “30 days” and substituting “45 days”.

Clerk to the Legislative Council

2004

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General
Clauses Ordinance (Cap. 1))

WASTE DISPOSAL (CHARGES FOR DISPOSAL OF CONSTRUCTION
WASTE) REGULATION

RESOLVED that the Waste Disposal (Charges for Disposal of
Construction Waste) Regulation, published in the Gazette
as Legal Notice No. 166 of 2004 and laid on the table of
the Legislative Council on 3 November 2004, be amended -

(a) in section 2, by repealing the definition of
"contract" and substituting -

"contract" (合約) means a contract in writing
or a contract supported by sufficient
evidence in writing;"

(b) in section 3(4)(c), by adding "all" before "the
conditions of use";

(c) by repealing section 7(1) and substituting -

"(1) If the Director is satisfied that the construction waste intended to be delivered by a person or on his behalf to a prescribed facility for disposal is generated from construction work undertaken under a contract, the Director may, on application, give approval for that person to establish an exemption account solely in respect of that contract if -

(a) that contract has been awarded before the commencement of this section; or

(b) the closing date (if any) for submitting a tender for that contract is earlier than the commencement of this section.";

(d) by repealing section 9(2) and substituting -

"(2) Where the Director has approved the application to establish a billing account solely in respect of that contract, the main contractor shall ensure that -

(a) that billing account is used for paying any prescribed charge payable in respect of construction waste generated from construction work

undertaken under that contract;
and

(b) that billing account is not used for paying any prescribed charge payable in respect of any other construction waste.”;

(e) in section 10 -

(i) by repealing subsections (4) and (5) and substituting -

“(4) The Director shall refund to an account-holder the deposit or, if it has been applied under subsection (3), the balance (if any) -

(a) upon the closure, at the account-holder’s request, of the billing account; or

(b) upon the revocation of the billing account.

(5) The Director may, on his own initiative or at an account-holder’s request, refund to the account-holder the deposit or part of it if the Director is satisfied

that the deposit or that part is no longer required.”;

(ii) by renumbering subsection (6) as subsection (7);

(iii) by adding -

“(6) In making a decision under subsection (5), the Director shall have regard to the factors that he considers relevant to the use of the billing account, including the amount of construction waste that the account-holder proposes to dispose of at any prescribed facility.”;

(f) in section 18(2), by repealing “30 days” and substituting “45 days”.