

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

Purpose

This paper briefs Members on the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Annex A) and Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 (Annex B).

Background

2. In 2003, about 6.5 million tonnes of waste were disposed of in our three landfills¹. About 53% of them are municipal solid waste (i.e. domestic, commercial and industrial waste), 38% are construction waste² and 9% are other special waste like sludge and animal carcasses. The three landfills occupy 270 hectares of land, cost \$6 billion to build and over \$400 million a year to operate. When planned in the 1980s, these landfills were expected to serve our need for waste disposal till 2020. However, as the waste volume continues to grow, the landfills are filling up much faster than expected, and are projected to last 7 to 11 years. They may be filled up much earlier, probably in 4 to 7 years, if we fail to regulate the disposal of construction waste there.

3. Disposal of waste at landfills has always been free of charge. This is undesirable and encourages indiscriminate disposal of waste at landfills. Landfill charging is an essential component of our waste management strategy as it provides an economic incentive for waste producers to reduce waste and to carry out sorting to facilitate reuse/recycling of waste, thereby helping to slow down the depletion of limited landfill capacity.

4. In 1995, we proposed to introduce a landfill charge for construction and commercial/industrial wastes. The legislation was made but was not brought

¹ The three landfills are located at Tseung Kwan O, Tuen Mun (Nim Wan) and North District (Ta Kwu Ling).

² Construction waste is a mixture of inert construction and demolition (C&D) materials (also called public fill) and non-inert organic C&D materials arising from construction, excavation, renovation and demolition works. The useful inert public fill comprising rocks, concrete, asphalt, rubbles, bricks, stones and earth are suitable for reuse in reclamation works. Some of the hard materials can also be recycled as aggregates for use in construction works. The non-inert waste comprising bamboo, plastic, timber and packaging waste are often mixed and contaminated. If uncontaminated, some of the materials can be recycled, but if they are contaminated, they will not be suitable for reuse or recycling, and have to be disposed of at landfills.

into operation due to strong objection from waste haulers who blockaded landfills for two days.

5. After many rounds of discussions with the relevant trades, particularly waste haulers and construction contractors³, we have developed a revised construction waste disposal charging scheme incorporating various features to address their concerns as far as practicable.

6. The LegCo Bills Committee set up to scrutinize the Bill has deliberated on the draft Regulations. Separately, to address waste haulers' concern over possible cashflow and bad debt problems, we have revised the charging arrangements by removing on-site payment and requiring all charges to be paid through billing accounts. Under this arrangement, all charges will need to be paid through billing accounts rather than levied through waste haulers. The waste haulers' associations welcome this arrangement. We have revised the relevant provisions in the draft Regulations to take into account the Bills Committee's suggestions as appropriate and reflect the latest payment arrangement. We have also taken the opportunity to refine the provisions in the draft Regulations.

7. The Waste Disposal (Amendment) (No.2) Bill 2003 is a piece of enabling legislation for implementing the construction waste disposal charging scheme. The Bill was passed by the LegCo on 2 July 2004 with amendments. It was signed by the Chief Executive on 8 July 2004 and promulgated on 9 July 2004.

8. The details of the charging scheme are now set out in the Regulations.

Waste Disposal (Charges for Disposal of Construction Waste) Regulation

9. The Waste Disposal (Charges for Disposal of Construction Waste) Regulation (known as "the Charging Regulation" hereafter) sets out the details of the construction waste disposal charging scheme. The major areas are highlighted in paragraphs 10 to 16 below.

³ We have had some 90 meetings with the affected trades on the revised scheme between 2000 and 2004. A Tripartite Working Group has been established since September 2004, and three meetings have been held so far, to keep dialogue with the trade, including the developers, contractors and waste haulers, with a view to collecting suggestions on the operation details and enabling better understanding of the scheme.

Definition of “construction waste” and “construction work”

10. For the purpose of charging, section 2 defines “construction waste” as “any substance, matter or thing that is generated from construction work and abandoned, whether or not it has been processed or stockpiled before being abandoned”. Section 2 also defines “construction work” as “the construction, erection, installation, reconstruction, repair, maintenance (including redecoration and external cleaning), renewal, removal, alteration, improvement, addition, dismantling, or demolition of” a list of specified structures and works, and the related operations.

Conditions for disposal of construction waste at prescribed facilities

11. Section 3 sets out the requirement to be complied with in disposing of construction waste at prescribed facilities.

Payment of charges through billing account

12. Section 13 stipulates that all waste disposal charges shall be paid through billing accounts. In other words, no on-site payment arrangement will be available at the waste disposal facilities.

Mandatory requirement for main contractors undertaking construction works valued \$1 million or above to apply for billing accounts and pay charges through the account

13. Section 9(1) requires that any main contractor who undertakes construction work with a value of \$1,000,000 or above shall, within 21 days after being awarded the construction contract, apply to the Director of Environmental Protection (DEP) for a billing account. Charges for disposal of waste from such construction works shall only be paid through the main contractor’s billing account under section 9(2). Main contractors who fail to apply for billing accounts or pay the disposal charges through the billing accounts as required under the Regulation commit an offence under section 9(7) and 9(8).

Exemption of construction contracts awarded before the commencement of the charging scheme

14. Section 7(1) provides for DEP to exempt construction contract awarded before the commencement of the Charging Regulation.

Charges payable for disposal of construction waste at the waste disposal facilities

15. Sections 13 – 17 and Schedules 1 to 4 provide for charges payable by users of landfills, refuse transfer stations, sorting facilities and public fill reception facilities for disposal of construction waste.

Types of construction waste to be accepted at the waste disposal facilities

16. Schedules 6 sets out the appropriate level of inert construction waste content for acceptance at landfills, refuse transfer stations, sorting facilities and public fill reception facilities.

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

17. The Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 sets out the related powers for DEP to implement the charging scheme in the Government-owned facilities. Section 4 confers powers on DEP to turn away vehicles carrying inappropriate types of waste for the waste disposal facilities in question.

Advice sought

18. Members are invited to note the content of the paper.

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OF CONSTRUCTION WASTE) REGULATION
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WASTE DISPOSAL (CHARGES FOR DISPOSAL OF CONSTRUCTION WASTE) REGULATION

(Made by the Chief Executive in Council under section 33 of the Waste Disposal Ordinance (Cap. 354) after consultation with the Advisory Council on the Environment)

PART 1 PRELIMINARY

1. Commencement

This Regulation 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.

2. Interpretation

In this Regulation, unless the context otherwise requires –

“account-holder” (帳戶戶主) means a person who has established a billing account or an exemption account;

“billing account” (繳費帳戶) means a billing account established under section 6(1);

“construction waste” (建築廢物) means any substance, matter or thing that is generated from construction work and abandoned, whether or not it has been processed or stockpiled before being abandoned, but does not include any sludge, screenings or matter removed in or generated from any desludging, desilting or dredging works;

“construction work” (建造工程) means –

- (a) the construction, erection, installation, reconstruction, repair, maintenance (including redecoration and external cleaning), renewal, removal, alteration, improvement, addition, dismantling, or demolition of any of the following structures or works –

- (i) any building, edifice, wall, fence or chimney, whether constructed wholly or partly above or below ground level;
 - (ii) any road, motorway, railway, tramway, cableway, aerial ropeway or canal;
 - (iii) any harbour works, dock, pier, sea defence works or lighthouse;
 - (iv) any aqueduct, viaduct, bridge or tunnel;
 - (v) any sewer, sewage disposal works or filter bed;
 - (vi) any airport or works connected with air navigation;
 - (vii) any dam, reservoir, well, pipeline, culvert, shaft or reclamation;
 - (viii) any drainage, irrigation or river control works;
 - (ix) any water, electrical, gas, telephonic, telegraphic, radio or television installation or works, or any other works designed for the manufacturing or transmission of power or the transmission or reception of radio or sound waves;
 - (x) any structure designed for the support of machinery, plant or power transmission lines;
 - (xi) any slope stabilization or treatment works;
 - (xii) any site formation works, ground investigation, foundation works or building operation;
- (b) any work involved in preparing for any operation referred to in paragraph (a); or
 - (c) the use of machinery, plant, tools, gear and materials in connection with any operation or work referred to in paragraph (a) or (b);

“contract” (合約) means a contract in writing;

- “designated waste disposal facility” (指定廢物處置設施) has the same meaning as in section 2(1) of the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg. L);
- “exemption account” (豁免繳費帳戶) means an exemption account established under section 8(1);
- “inert construction waste” (惰性建築廢物) means construction waste belonging to a type of material specified in Schedule 5;
- “landfill” (堆填區) means a landfill specified in Part 1 of Schedule 1;
- “landfill charge” (堆填費) means a landfill charge payable under section 14;
- “maximum load” (最高載重), in relation to a vessel, means the weight of the maximum load that the vessel is capable of carrying, as determined by the Director under section 12(2);
- “prescribed charge” (訂明收費) means a landfill charge, sorting charge or public fill charge;
- “prescribed facility” (訂明設施) means a landfill, refuse transfer station, sorting facility or public fill reception facility;
- “public fill charge” (公眾填料費) means a public fill charge payable under section 16;
- “public fill reception facility” (公眾填料接收設施) means a public fill reception facility specified in Part 1 of Schedule 4;
- “refuse transfer station” (廢物轉運站) means a refuse transfer station specified in Part 1 of Schedule 2;
- “sorting charge” (篩選分類費) means a sorting charge payable under section 15;
- “sorting facility” (篩選分類設施) means a sorting facility specified in Part 1 of Schedule 3;
- “specified form” (指明表格), in relation to any purpose under this Regulation, means a form specified for that purpose by the Director under section 20;
- “surcharge” (附加費) means a surcharge payable under section 18(3).

PART 2
DISPOSAL OF CONSTRUCTION WASTE
AT PRESCRIBED FACILITIES

**3. Conditions for disposal of construction waste
at prescribed facilities**

(1) Subject to subsection (2), construction waste may be accepted for disposal at a designated waste disposal facility only if –

- (a) the facility is a prescribed facility;
- (b) the Director is satisfied that the requirement in respect of the content of inert construction waste specified in Schedule 6 for the prescribed facility concerned is complied with in respect of the construction waste;
- (c) the person who delivers it, or on whose behalf it is delivered, is an account-holder of a valid billing account;
and
- (d) the construction waste is delivered in accordance with all the conditions of use imposed in relation to that account.

(2) Where the construction waste is generated from construction work undertaken under a contract referred to in section 9(2), the billing account referred to in subsection (1)(c) and (d) must be one established solely in respect of that contract.

(3) Where the construction waste is generated from construction work undertaken under a contract referred to in section 7(1), the billing account referred to in subsection (1)(c) and (d) may instead be an exemption account established solely in respect of that contract, so long as that account is a valid exemption account.

(4) Construction waste delivered by a vessel to a designated waste disposal facility may be accepted for disposal at the facility only if, in addition to the requirements in subsections (1) and (2) –

- (a) the facility is a public fill reception facility;

- (b) the vessel is approved by the Director to be used for this purpose under Part 4; and
- (c) the construction waste is delivered in accordance with the conditions of use imposed in relation to the approval of that vessel.

(5) Subsection (1)(c) and (d) does not apply in respect of construction waste that is –

- (a) delivered by a vehicle owned by the Government; or
- (b) arising from the operation of a prescribed facility.

(6) Without prejudice to the circumstances in which construction waste may not be accepted under subsection (1) or (4), the Director may refuse to accept any waste at a designated waste disposal facility in such other circumstances as he thinks fit.

(7) In this section –

“valid billing account”(有效繳費帳戶) means a billing account that is not suspended, revoked or closed at the time the construction waste concerned is delivered to the prescribed facility for disposal;

“valid exemption account” (有效豁免繳費帳戶) means an exemption account that is not revoked or has not expired at the time the construction waste concerned is delivered to the prescribed facility for disposal.

4. Powers to inspect waste and determine whether charge is payable

The Director may –

- (a) for the purposes of section 3, carry out an inspection to determine whether a load of waste delivered to a designated waste disposal facility is construction waste and whether the requirement in section 3(1)(b) is complied with; and

- (b) determine whether a prescribed charge is to be imposed in respect of any waste accepted for disposal at a prescribed facility.

PART 3

BILLING ACCOUNTS AND EXEMPTION ACCOUNTS

5. Application for billing account for disposal of construction waste

(1) A person may apply to establish a billing account by making an application to the Director in writing and in the specified form.

(2) The specified form may require that –

- (a) it be completed in a specified way;
- (b) specified information or documents be included in or attached to it; or
- (c) it be submitted in a specified manner.

(3) The Director may, by notice in writing, require an applicant to provide, within a reasonable period specified in the notice, additional information and documents as are reasonably necessary to enable the Director to determine the application.

(4) Where a change in the information provided to the Director under this section occurs before the determination of the application, the applicant shall, as soon as reasonably practicable, inform the Director in writing of the change unless the application has been withdrawn.

(5) If any requirement under this section is not complied with, the application is to be treated as not properly made.

6. Determination of application for billing account

(1) The Director may approve an application to establish a billing account or reject the application.

(2) The Director may reject the application if –

- (a) the application is not properly made;
- (b) the information provided by the applicant in relation to the application is incorrect or misleading; or
- (c) a prescribed charge or surcharge is outstanding under another billing account established by the applicant.

(3) The Director shall give the applicant notice in writing of the decision to approve or reject an application. If the Director rejects the application, he shall include in the notice a statement setting out the reasons for the decision.

(4) The Director may approve an application to establish a billing account subject to such conditions as the Director considers appropriate.

(5) Without limiting subsection (4), the Director may impose –

- (a) any basic conditions on the breach of which the Director may revoke the billing account; and
- (b) any conditions of use that must be complied with for the purpose of delivering construction waste to a prescribed facility for disposal, including a condition requiring the account-holder to pay to the Director a deposit of an amount specified by the Director as security for the payment of any prescribed charge or surcharge.

(6) The Director may from time to time, by giving notice in writing to the account-holder, impose any additional conditions or vary or revoke any conditions imposed under this section.

(7) Where a change in the information provided to the Director in relation to a billing account occurs, the account-holder shall, as soon as reasonably practicable, inform the Director in writing of the change.

(8) The Director may revoke a billing account if the account-holder, without reasonable excuse, fails to comply with subsection (7) or with any basic condition imposed in relation to the account.

7. Application for exemption account

(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 that has been awarded before the commencement of this section, the Director may, on application, give approval for that person to establish an exemption account solely in respect of that contract.

(2) No prescribed charge is payable by the account-holder of that exemption account in respect of construction waste generated from construction work undertaken under that contract.

(3) Any application to establish an exemption account must be made not later than 21 days from the commencement of this section. The application must be made in writing and in the specified form.

(4) The specified form may require that –

- (a) it be completed in a specified way;
- (b) specified information or documents be included in or attached to it; or
- (c) it be submitted in a specified manner.

(5) The Director may, by notice in writing, require an applicant to provide, within a reasonable period specified in the notice, additional information and documents as are reasonably necessary to enable the Director to determine the application.

(6) Where a change in the information provided to the Director under this section occurs before the determination of the application, the applicant shall, as soon as reasonably practicable, inform the Director in writing of the change unless the application has been withdrawn.

(7) If any requirement under subsection (3), (4), (5) or (6) is not complied with, the application is to be treated as not properly made.

8. Determination of application for exemption account

(1) The Director may approve an application to establish an exemption account or reject the application.

(2) On approving the application, the Director may limit the validity of that account to a specified period.

(3) Subject to section 7(1), the Director may reject the application if –

- (a) the application is not properly made; or
- (b) the information provided by the applicant in relation to the application is incorrect or misleading.

(4) The Director shall give the applicant notice in writing of the decision to approve or reject an application. If the Director rejects the application, he shall include in the notice a statement setting out the reasons for the decision.

(5) The Director may approve an application to establish an exemption account subject to such conditions as the Director considers appropriate.

(6) Without limiting subsection (5), the Director may impose –

- (a) any basic conditions on the breach of which the Director may revoke the exemption account; and
- (b) any conditions of use that must be complied with for the purpose of delivering construction waste to a prescribed facility for disposal.

(7) The Director may from time to time, by giving notice in writing to the account-holder, impose any additional conditions or vary or revoke any conditions imposed under this section.

(8) The Director may revoke an exemption account if the account-holder, without reasonable excuse, fails to comply with any basic condition imposed in relation to the account.

(9) Where a change in the information provided to the Director in relation to an exemption account occurs, the account-holder shall, as soon as reasonably practicable, inform the Director in writing of the change.

(10) The account-holder of an exemption account who, without reasonable excuse, fails to comply with subsection (9) commits an offence and is liable to a fine at level 6.

(11) The Director may make public the information that the validity of an exemption account is limited to a specified period or the account has been revoked or has expired, in a manner the Director considers appropriate.

9. Duty of main contractor of construction work to apply for billing account

(1) A main contractor who undertakes construction work with a value of \$1,000,000 or above under a contract that has been awarded on or after the commencement of this section shall, within 21 days after being awarded the contract, make an application to the Director to establish a billing account solely in respect of that contract.

(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 that billing account is used for paying any prescribed charge payable in respect of construction waste generated from construction work undertaken under that contract.

(3) In this section, “main contractor” (主要承判商) means a person who enters into a contract directly with an owner or occupier of any land, or with an agent or authorized architect, surveyor or engineer of such owner or occupier, to perform any construction work for such owner or occupier.

(4) For the purpose of subsection (1), “value” (價值), in relation to construction work undertaken under a contract, means the consideration attributable to such work, as stated in, or ascertainable by reference to, the contract.

(5) Notwithstanding subsection (4), if in a particular case the consideration attributable to the construction work concerned as determined in accordance with that subsection is below the reasonable consideration to be expected on the open market in respect of the carrying out of such work, that subsection shall be deemed to contain a reference to the reasonable consideration described in this subsection instead of the consideration described in that subsection.

(6) For the purpose of subsection (5), the Director may, when ascertaining the reasonable consideration in respect of the carrying out of any construction work, have regard to all or any of the following matters –

- (a) the cost or value of materials to be used in the construction work;
- (b) the cost or value of time, work and labour to be involved in the construction work;
- (c) the equipment to be used in the construction work;
- (d) such overhead costs to be incurred in relation to the construction work as the Director considers reasonable;
- (e) the reasonable profit to be expected on the open market in respect of the carrying out of the construction work;
- (f) any other factors that the Director considers appropriate.

(7) A main contractor who, without reasonable excuse, fails to comply with subsection (1) commits an offence and is liable to a fine at level 5 and, in the case of a continuing offence, to a further daily fine of \$1,000 for each day during which the offence continues.

(8) A main contractor who, without reasonable excuse, fails to comply with subsection (2) commits an offence and is liable to a fine at level 5.

10. Deposits

(1) This section applies to any deposit paid to the Director by an account-holder in relation to a billing account.

(2) No interest is payable to the account-holder on the deposit and the deposit is not transferable.

(3) The Director may apply any such deposit towards the payment of any unpaid prescribed charge or surcharge outstanding under the billing account in relation to which the deposit is paid.

(4) Subject to subsection (5), 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;
- (b) upon the revocation of the billing account; or
- (c) if the Director is of the opinion that the deposit is no longer required.

(5) The Director may refund to the account-holder only part of the deposit or the balance if the Director is of the opinion that only that part is no longer required.

(6) The Director may at any time, by notice in writing to an account-holder –

- (a) increase the amount required to be paid as a deposit by an amount specified in the notice; and
- (b) require the account-holder to pay the increase to the Director within the period and in the manner specified in the notice.

PART 4
DELIVERY OF CONSTRUCTION WASTE TO
PUBLIC FILL FACILITIES BY VESSELS

11. Application for vessel to be approved for delivering construction waste to public fill reception facility

(1) The Director 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 facility for disposal.

(2) An application must be –

- (a) made to the Director in writing and in the specified form; and
- (b) accompanied by information or documents that enable the Director to determine the maximum load of the vessel concerned for the purpose of calculating the public fill charge applicable to it.

(3) The specified form may require that –

- (a) it be completed in a specified way;
- (b) specified information or documents be included in or attached to it; or
- (c) it be submitted in a specified manner.

(4) The Director may, by notice in writing, require an applicant to provide, within a reasonable period specified in the notice, additional information and documents as are reasonably necessary to enable the Director to determine the application.

(5) Where a change in the information provided to the Director under this section occurs before the determination of the application, the applicant shall, as soon as reasonably practicable, inform the Director in writing of the change unless the application has been withdrawn.

(6) If any requirement under subsection (2), (3), (4) or (5) is not complied with, the application is to be treated as not properly made.

12. Determination of application for vessel to be approved for delivering construction waste

(1) The Director may approve a vessel under section 11 or reject the application.

(2) On approving the vessel, the Director shall determine the maximum load of the vessel for the purpose of calculating the public fill charge applicable to it.

(3) The Director may reject the application if –

- (a) the vessel is not a steel lighter or steel hopper barge;
- (b) the application is not properly made; or
- (c) the information provided by the applicant in relation to the application is incorrect or misleading.

(4) The Director shall give the applicant notice in writing of the decision to approve the vessel or reject the application. If the Director rejects the application, he shall include in the notice a statement setting out the reasons for the decision.

(5) The Director may approve the vessel subject to such conditions as the Director considers appropriate.

(6) Without limiting subsection (5), the Director may impose –

- (a) any basic conditions on the breach of which the Director may revoke the approval; and
- (b) any conditions of use that must be complied with for the purpose of using the vessel to deliver construction waste to a prescribed facility for disposal.

(7) The Director may from time to time, by giving notice in writing to the account-holder, impose any additional conditions or vary or revoke any conditions imposed under this section.

(8) Where a change in the information provided to the Director in relation to a vessel approved under this Part occurs, the account-holder shall, as soon as reasonably practicable, inform the Director in writing of the change.

(9) The Director may revoke the approval of a vessel if the account-holder, without reasonable excuse, fails to comply with subsection (8) or with any basic condition imposed in relation to that approval.

PART 5

PAYMENT OF PRESCRIBED CHARGES

13. Prescribed charges to be paid using billing account

A prescribed charge payable by an account-holder under this Part in respect of the construction waste delivered by him or on his behalf to a prescribed facility for disposal must be paid using a billing account established by that account-holder.

14. Landfill charge

(1) An account-holder of a billing account shall, in respect of each load of construction waste delivered by him or on his behalf to a landfill for disposal, pay to the Director a landfill charge calculated in accordance with Part 2 of Schedule 1.

(2) An account-holder of a billing account shall, in respect of each load of construction waste delivered by him or on his behalf to a refuse transfer station for disposal, pay to the Director a landfill charge calculated in accordance with Part 2 of Schedule 2.

(3) If a load of waste delivered to a landfill or refuse transfer station for disposal contains construction waste and other waste, that load is regarded as consisting entirely of construction waste for the purpose of calculating the landfill charge applicable to it.

15. Sorting charge

An account-holder of a billing account shall, in respect of each load of construction waste delivered by him or on his behalf to a sorting facility for disposal, pay to the Director a sorting charge calculated in accordance with Part 2 of Schedule 3.

16. Public fill charge

(1) Except as provided in subsection (2), an account-holder of a billing account shall, in respect of each load of construction waste delivered by him or on his behalf to a public fill reception facility for disposal, pay to the Director a public fill charge calculated in accordance with items (a), (b) and (c) in Part 2 of Schedule 4.

(2) Where construction waste is delivered by a vessel approved under Part 4 to a public fill reception facility for disposal, the account-holder concerned shall, in respect of each load of construction waste so delivered by him or on his behalf, pay to the Director a public fill charge calculated on the basis of the maximum load of the vessel and in accordance with item (d) in Part 2 of Schedule 4.

17. Determination of weight of construction waste delivered by vehicles

(1) For the purpose of calculating the prescribed charge payable in respect of a load of construction waste delivered by a vehicle to a prescribed facility for disposal, the weight of the waste is the difference between –

- (a) the gross vehicle weight of the vehicle recorded at the in-weighbridge of the facility before the waste has been unloaded from the vehicle; and
- (b) the gross vehicle weight of the vehicle recorded at the out-weighbridge of the facility after the waste has been unloaded from the vehicle.

(2) If the gross vehicle weight referred to in subsection (1)(b) is not recorded because the driver of the vehicle concerned fails to stop the vehicle at the out-weighbridge of the facility after the waste has been unloaded, the weight of the waste is to be regarded as the gross vehicle weight of the vehicle referred to in subsection (1)(a).

(3) If the gross vehicle weight referred to in subsection (1)(a) is not recorded because the driver of the vehicle concerned fails to stop the vehicle at the in-weighbridge of the facility before the waste has been unloaded, the weight of the waste is to be regarded as the permitted gross vehicle weight of the vehicle, regardless of whether the gross vehicle weight referred to in subsection (1)(b) is recorded or not.

(4) In this section, “gross vehicle weight” (車輛總重) and “permitted gross vehicle weight” (許可車輛總重) have the same meaning as in section 2 of the Road Traffic Ordinance (Cap. 374).

18. Payment of prescribed charges and levy of surcharge upon non-payment

(1) The Director shall issue to an account-holder of a billing account a notice of demand in writing specifying the amount of any prescribed charge incurred by him on that account during the period specified in the notice.

(2) The account-holder shall pay to the Director the specified prescribed charge within 30 days from the date of the notice and in the manner specified in the notice.

(3) If the amount specified in the notice is not paid as required, the account-holder is liable to pay a surcharge of 5% of the unpaid amount.

(4) The account-holder shall pay to the Director the total amount of the unpaid prescribed charge and the surcharge within 14 days from the date on which the surcharge becomes payable.

19. Suspension and revocation of billing account

(1) If any unpaid prescribed charge and surcharge is not paid as required under section 18(4), the Director may suspend the billing account.

(2) On suspending a billing account, the Director shall issue to the account-holder a final notice of demand in writing –

(a) requiring him to pay, within 14 days from the date of that notice –

(i) the prescribed charge and surcharge that have not been paid as required under section 18(4); and

(ii) any other outstanding prescribed charge incurred by him on that account before the suspension, whether or not that charge has become due for payment under section 18(2); and

(b) informing him that if the final notice of demand is not settled as required, the billing account will be revoked.

(3) The Director shall, within 14 days of the suspension of the billing account, issue to the account-holder a notice in writing informing him of the reason for the suspension.

(4) If the Director is subsequently satisfied that the reason for suspending a billing account no longer exists, he may, with or without conditions, reinstate the account on the application of the account-holder.

(5) If a final notice of demand is not settled as required under subsection (2), the Director may revoke the billing account.

(6) The Director shall, within 14 days of the revocation of the billing account, issue to the account-holder a notice in writing informing him of the reason for the revocation.

(7) On the application of the account-holder of a revoked billing account, the Director may, with or without conditions, reinstate the account if all the outstanding prescribed charges and surcharges under the revoked account have been paid.

(8) The Director may make public the information that a billing account has been suspended, revoked, reinstated or closed, in a manner the Director considers appropriate.

PART 6
MISCELLANEOUS

20. Director may specify forms

The Director may specify a form for any purpose under this Regulation.

21. Notices given by Director

(1) A notice by the Director under this Regulation may be given or issued –

- (a) by delivering it personally to the person to whom it is to be given or issued; or
- (b) by sending it by post to that person's address last known to the Director.

(2) The notice is also taken to have been given or issued under this Regulation if –

- (a) it is sent to that person by facsimile transmission, electronic mail or other similar means of communication at that person's facsimile number or electronic mail address last known to the Director; and
- (b) a record, generated by the means of transmission, establishes that the notice was so sent.

22. Offences involving incorrect information

A person who, in purported compliance with a requirement under this Regulation –

- (a) makes any statement or gives any information that he knows to be incorrect in a material particular;

- (b) recklessly makes any statement or gives any information that is incorrect in a material particular; or
- (c) knowingly or recklessly omits any material particular from any statement or information,

commits an offence and is liable to a fine at level 6.

23. Amendment of Schedules

The Secretary may, by notice published in the Gazette, amend any of the Schedules.

24. Repeal

The Waste Disposal (Charges for Disposal of Waste) Regulation (Cap. 354 sub. leg. K) is repealed.

SCHEDULE 1

[ss. 2, 14 & 23]

CHARGES FOR DISPOSAL OF CONSTRUCTION WASTE AT LANDFILLS

PART 1

LANDFILLS

Item	Name	Address	Number of drawing or plan held by the Director by which boundaries of the facility are delineated
------	------	---------	---

- | | | | |
|----|--|--|---|
| 1. | West New Territories (WENT) Landfill | Lung Kwu Tan Road, Nim Wan, Tuen Mun, N.T. | Drawing number WENT/GEN/102 Rev. B (Contract Document Vol. 3 of 12) |
| 2. | South East New Territories (SENT) Landfill | Shek Miu Wan, Tseung Kwan O, N.T. | Drawing number 90872/SP10/014B |
| 3. | North East New Territories (NENT) Landfill | Wo Keng Shan Road, Ta Kwu Ling, N.T. | Drawing number 90303/CON-01 TO 04 |

PART 2

LANDFILL CHARGE

The landfill charge payable in respect of each load of construction waste delivered to a landfill for disposal is calculated as follows –

	Charge
(a) For a load of waste weighing 1 tonne or less	\$125
(b) For a load of waste weighing more than 1 tonne	\$12.5 per 0.1 tonne*
(c) For a load of waste the ascertainment of the weight of which, in the Director's opinion, is impracticable or will cause public health problems	\$125

* In ascertaining the weight of a load of waste for the purpose of calculating the charge payable under item (b) -

- (i) any fraction of 0.1 tonne that is less than 0.05 tonne shall be disregarded; and

- (ii) any fraction of 0.1 tonne that is not less than 0.05 tonne shall be regarded as 0.1 tonne.

SCHEDULE 2

[ss. 2, 14 & 23]

CHARGES FOR DISPOSAL OF CONSTRUCTION WASTE AT
REFUSE TRANSFER STATIONS

PART 1

REFUSE TRANSFER STATIONS

Item	Name	Address	Number of drawing or plan held by the Director by which boundaries of the facility are delineated
1.	Outlying Islands Transfer Facilities – Cheung Chau Station (OITF-CCS)	1 Cheung Kwai Road, Cheung Chau, N.T.	Plan number ISA 477-A
2.	Outlying Islands Transfer Facilities – Mui Wo Station (OITF-MuiWS)	35 Mui Wo Ferry Pier Road, Mui Wo, Lantau, N.T.	Plan number IS 3099-D
3.	Outlying Islands Transfer Facilities – Peng Chau Station (OITF-PCS)	GLA IS 296 & GLA IS 335, Tai Lei Island, Peng Chau, N.T.	Plan number IS 2860-DA & Plan number IS 3093-D

- | | | | |
|----|--|---|------------------------|
| 4. | Outlying Islands Transfer Facilities – Hei Ling Chau Station (OITF-HLCS) | Western tip of Hei Ling Chau, adjoining the cargo pier, Hei Ling Chau, N.T. | Plan number ISA 490-E |
| 5. | Outlying Islands Transfer Facilities – Yung Shue Wan Station (OITF-YSWS) | Yung Shue Wan, Lamma Island, N.T. | Plan number IS 3273-D |
| 6. | Outlying Islands Transfer Facilities – Sok Kwu Wan Station (OITF-SKWS) | Sok Kwu Wan, Lamma Island, N.T. | Plan number IS 3161-D |
| 7. | Outlying Islands Transfer Facilities – Ma Wan Station (OITF-MaWS) | Pak Wan, Ma Wan, N.T., adjoining Sewage Treatment Plant. | Plan number TWA 1058-E |

PART 2

LANDFILL CHARGE

The landfill charge payable in respect of each load of construction waste delivered to a refuse transfer station for disposal is calculated as follows –

		Charge
(a)	For a load of waste weighing 0.1 tonne or less	\$12.5
(b)	For a load of waste weighing more than 0.1 tonne	\$12.5 per 0.1 tonne*
(c)	For a load of waste the ascertainment of the weight of which, in the Director's opinion, is impracticable or will cause public health problems	\$12.5

* In ascertaining the weight of a load of waste for the purpose of calculating the charge payable under item (b) –

- (i) any fraction of 0.1 tonne that is less than 0.05 tonne shall be disregarded; and
- (ii) any fraction of 0.1 tonne that is not less than 0.05 tonne shall be regarded as 0.1 tonne.

SCHEDULE 3

[ss. 2, 15 & 23]

CHARGES FOR DISPOSAL OF CONSTRUCTION WASTE AT SORTING FACILITIES

PART 1

SORTING FACILITIES

Item	Name	Address	Number of drawing or plan held by the Director by which boundaries of the facility are delineated
1.	Tuen Mun Area 38 Temporary Construction Waste Sorting Facility	Southern side of Tuen Mun Area 38, near River Trade Terminal, Tuen Mun, N.T.	Plan number P 20332-1
2.	Tseung Kwan O Area 137 Temporary Construction Waste Sorting Facility	Southern side of Tseung Kwan O Area 137, N.T.	Plan number P 20332-2

PART 2

SORTING CHARGE

The sorting charge payable in respect of each load of construction waste delivered to a sorting facility for disposal is calculated as follows –

	Charge
(a) For a load of waste weighing 1 tonne or less	\$100
(b) For a load of waste weighing more than 1 tonne .	\$10 per 0.1 tonne*
(c) For a load of waste the ascertainment of the weight of which, in the Director's opinion, is impracticable or will cause public health problems	\$100

* In ascertaining the weight of a load of waste for the purpose of calculating the charge payable under item (b) –

- (i) any fraction of 0.1 tonne that is less than 0.05 tonne shall be disregarded; and
- (ii) any fraction of 0.1 tonne that is not less than 0.05 tonne shall be regarded as 0.1 tonne.

SCHEDULE 4

[ss. 2, 16 & 23]

CHARGES FOR DISPOSAL OF CONSTRUCTION WASTE AT PUBLIC FILL RECEPTION FACILITIES

PART 1

PUBLIC FILL RECEPTION FACILITIES

Item	Name	Address	Number of drawing or plan held by the Director by which boundaries of the facility are delineated
1.	Tseung Kwan O Area 137 Fill Bank	Eastern side of Tseung Kwan O Area 137, N.T.	Plan number P 20332-3

2.	Tuen Mun Area 38 Fill Bank	Tuen Mun Area 38, near River Trade Terminal, Tuen Mun, N.T.	Plan number P 20332-4
3.	Sai Ying Pun Temporary Public Filling Barging Point	Eastern Street North, Sai Ying Pun, Hong Kong.	Plan number P 20332-5
4.	Quarry Bay Temporary Public Filling Barging Point	Hoi Yu Street, Quarry Bay, Hong Kong.	Plan number P 20332-6
5.	Kai Tak Temporary Public Filling Barging Point	Middle of the Former Kai Tak Runway, adjacent to the Taxiway Bridge, Kowloon City, Kowloon.	Plan number P 20332-7
6.	Mui Wo Temporary Public Fill Reception Facility	Mui Wo Ferry Pier Road, Mui Wo, Lantau, N.T.	Plan number P 20332-8

PART 2

PUBLIC FILL CHARGE

The public fill charge payable in respect of each load of construction waste delivered to a public fill reception facility for disposal is calculated as follows –

	Charge
(a) For a load of waste weighing 1 tonne or less	\$27
(b) For a load of waste weighing more than 1 tonne ..	\$2.7 per 0.1 tonne*
(c) For a load of waste the ascertainment of the weight of which, in the Director's opinion, is impracticable or will cause public health	

problems	\$27
(d) For each load of waste delivered by a vessel approved under Part 4.....	\$2.7 for every 0.1 tonne of the maximum load of the vessel*

* In ascertaining the weight of a load of waste for the purpose of calculating the charge payable under item (b) or (d) –

- (i) any fraction of 0.1 tonne that is less than 0.05 tonne shall be disregarded; and
- (ii) any fraction of 0.1 tonne that is not less than 0.05 tonne shall be regarded as 0.1 tonne.

SCHEDULE 5

[ss. 2 & 23]

INERT CONSTRUCTION WASTE

Rock, rubble, boulder, earth, soil, sand, concrete, asphalt, brick, tile, masonry or used bentonite.

SCHEDULE 6

[ss. 3 & 23]

CONTENT REQUIREMENTS OF INERT CONSTRUCTION WASTE FOR PRESCRIBED FACILITIES

1. Each load of construction waste delivered to a landfill for disposal must not contain more than 50% by weight of inert construction waste.
2. Each load of construction waste delivered to a refuse transfer station for disposal may but need not contain any inert construction waste.

3. Each load of construction waste delivered to a sorting facility for disposal must contain more than 50% by weight of inert construction waste.
4. Each load of construction waste delivered to a public fill reception facility for disposal must consist entirely of inert construction waste.

Clerk to the Executive Council

COUNCIL CHAMBER

2004

Explanatory Note

This Regulation introduces a charging scheme for the disposal of construction waste at government waste disposal facilities. It replaces the 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.

2. This Regulation sets out in Schedules 1 to 4 the landfills, refuse transfer stations, sorting facilities and public fill reception facilities that are available for disposal of construction waste. Part 2 sets out the requirements to be complied with in using those facilities, including the inert content specifications that the construction waste must conform to in order to be accepted for disposal at the facilities (see section 3 and Schedules 5 and 6).
3. One of the main requirements for using the facilities is that a billing account must be established with the Director of Environmental Protection (“the

Director”) so that charges can be paid using the account. An exemption account may be applied for in respect of a construction contract awarded before the commencement of this Regulation. Part 3 sets out how to apply for the establishment of these accounts and gives power to the Director to refuse an application for opening an account in certain circumstances. Failure of the account-holder of an exemption account to inform the Director of any change in the information provided in relation to the account is an offence (see section 8(9) and (10)).

4. A main contractor who undertakes construction work valued at \$1 million or above has a duty to apply for a billing account within 21 days after being awarded the contract. Having established the account, he has the duty to use it for paying any charges for using the facilities to dispose of construction waste generated from work undertaken under that contract. Failure to comply with either duty is an offence (see section 9).

5. Part 4 provides that certain types of vessels may on application be approved by the Director to be used for delivering construction waste to public fill reception facilities for disposal.

6. Part 5 and Schedules 1 to 4 set out how charges payable for the disposal of construction waste at the facilities are to be calculated and the requirements that payment must be made using billing accounts on the issue of notices of demand by the Director. An overdue payment will attract a surcharge and may lead to suspension and revocation of the billing account.

7. Section 22 makes it an offence for a person to make an incorrect statement or give any incorrect information under this Regulation.

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

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

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

(Made by the Chief Executive in Council under section 33 of the Waste Disposal Ordinance (Cap. 354) after consultation with the Advisory Council on the Environment)

Commencement

This Regulation 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.

Interpretation

(1) Section 2(1) of the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg. L) is amended, in the definition of “designated waste disposal facility”, by repealing “the Schedule” and substituting “Schedule 1”.

(2) Section 2(1) is amended by adding –

““construction waste” (建築廢物) and “inert construction waste” (惰性建築廢物) have the same meaning as in section 2 of the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (L.N. of 2004);”.

(3) Section 2(2) is amended by repealing “the Schedule opposite the name of the facility in column 2 of the Schedule” and substituting “Schedule 1 opposite the name of the facility in column 2 of that Schedule”.

3. Section added

The following is added –

“3A. Facilities that accept construction waste

(1) Subject to the provisions in the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (L.N. of 2004), construction

waste may be accepted for disposal at a designated waste disposal facility only if –

- (a) the facility is one specified in column 2 of Schedule 2; and
- (b) the construction waste falls within the type specified in column 3 of that Schedule opposite that facility.

(2) No waste shall be accepted for disposal at a designated waste disposal facility specified in item 3 or 4 in column 2 of Schedule 2 unless it is construction waste that falls within the type specified in column 3 of that Schedule opposite that facility.”.

4. Powers of Director

- (1) Section 4(2) is amended by adding –
 - “(aa) the power to order or signal the master of a vessel within or entering or leaving a designated waste disposal facility –
 - (i) to stop the vessel immediately;
 - (ii) to move the vessel to or moor it at any place within the facility; or
 - (iii) to leave the facility;”.
- (2) Section 4(2)(b)(i) is amended by repealing “him” and substituting “the Director”.
- (3) Section 4(2)(b) is amended by adding –
 - “(ia) to require the master of a vessel within a designated waste disposal facility or stopped by the Director under paragraph (aa) –
 - (A) to produce the licence issued by the Director of Marine in respect of the vessel under regulation 3 of the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F) for examination;
 - (B) to give the name and address of the registered owner of the vessel;

(C) to provide such information as is within the master's knowledge concerning the waste being carried on the vessel;"

(4) Section 4(2)(b)(ii) is repealed and the following substituted –

“(ii) to enter, examine and search the vehicle referred to in subparagraph (i) or the vessel referred to in subparagraph (ia) and any thing in or on that vehicle or vessel, and to take from it and retain samples of any materials having the appearance of waste;”

(5) Section 4(2)(b)(iii) is amended by repealing “any vehicle referred to in subparagraph (i)” and substituting “that vehicle or vessel”.

(6) Section 4(2)(c) is amended by adding “, vessel” after “vehicle” where it twice appears.

(7) Section 4 is amended by adding –

“(4A) The Director or an authorized officer may also exercise the following powers –

- (a) refuse to accept any waste at a designated waste disposal facility in such circumstances as the Director thinks fit;
- (b) subject to subsection (4B), require any person who delivers any waste to a designated waste disposal facility to state the nature of the waste and give such other information as the Director considers necessary to determine whether or not to accept the waste at that facility;
- (c) close a designated waste disposal facility or any part of it for such period as the Director considers necessary by posting a notice of closure in such conspicuous places in the facility as the Director may determine.

(4B) If a person delivering any waste to a designated waste disposal facility informs the Director that the waste is construction waste,

the Director shall not require the person to state whether the construction waste falls within any type specified in column 3 of Schedule 2.”.

(8) Section 4(5) is amended by adding “or (4A)” after “(2)”.

5. Offence of causing disruption or disorder

Section 5(2)(a) is amended by adding “and authorized officer” after “designated officer”.

6. Section added

The following is added –

“5A. Offences involving incorrect information

A person who, in purported compliance with a requirement under section 4 –

- (a) makes any statement or gives any information that he knows to be incorrect in a material particular;
- (b) recklessly makes any statement or gives any information that is incorrect in a material particular;
- or
- (c) knowingly or recklessly omits any material particular from any statement or information,

commits an offence and is liable to a fine at level 6.”.

7. Certificates of image recording and printing devices

Section 6(1)(a) is amended by adding “or vessels” after “vehicles”.

8. Amendment of Schedules

Section 8 is amended by repealing “the Schedule” and substituting “any of the Schedules”.

9. Designated waste disposal facilities

The Schedule is amended –

- (a) by repealing “SCHEDULE” and substituting “SCHEDULE 1”;
- (b) by repealing “[ss. 2 & 8]” and substituting “[ss. 2 & 8 & Sch. 2]”;
- (c) by adding –
- | | | | |
|------|--|--|----------------------------|
| “19. | Tuen Mun Area 38
Temporary Construction
Waste Sorting Facility | Southern side of Tuen Mun
Area 38, near River Trade
Terminal, Tuen Mun, N.T. | Plan number
P 20332-1 |
| 20. | Tseung Kwan O Area 137
Temporary Construction
Waste Sorting Facility | Southern side of Tseung
Kwan O Area 137, N.T. | Plan number
P 20332-2 |
| 21. | Tseung Kwan O Area 137
Fill Bank | Eastern side of Tseung
Kwan O Area 137, N.T. | Plan number
P 20332-3 |
| 22. | Tuen Mun Area 38 Fill
Bank | Tuen Mun Area 38, near
River Trade Terminal, Tuen
Mun, N.T. | Plan number
P 20332-4 |
| 23. | Sai Ying Pun Temporary
Public Filling Barging Point | Eastern Street North, Sai
Ying Pun, Hong Kong. | Plan number
P 20332-5 |
| 24. | Quarry Bay Temporary
Public Filling Barging Point | Hoi Yu Street, Quarry Bay,
Hong Kong. | Plan number
P 20332-6 |
| 25. | Kai Tak Temporary Public
Filling Barging Point | Middle of the Former Kai
Tak Runway, adjacent to
the Taxiway Bridge,
Kowloon City, Kowloon. | Plan number
P 20332-7 |
| 26. | Mui Wo Temporary Public
Fill Reception Facility | Mui Wo Ferry Pier Road,
Mui Wo, Lantau, N.T. | Plan number
P 20332-8”. |

10. Schedule 2 added

The following is added –

“SCHEDULE 2 [ss. 3A, 4 & 8]

**TYPES OF CONSTRUCTION WASTE ACCEPTED AT DESIGNATED
WASTE DISPOSAL FACILITIES**

Item	Designated waste disposal facility	Type of construction waste accepted
1.	Landfills specified in items 1, 2 and 3 of Schedule 1	Construction waste containing not more than 50% by weight of inert construction waste.
2.	Outlying islands transfer facilities specified in items 11, 12, 13, 14, 15, 16 and 17 of Schedule 1	Construction waste containing any percentage of inert construction waste.
3.	Sorting facilities specified in items 19 and 20 of Schedule 1	Construction waste containing more than 50% by weight of inert construction waste.
4.	Public fill reception facilities specified in items 21, 22, 23, 24, 25 and 26 of Schedule 1	Construction waste consisting entirely of inert construction waste.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2004

Explanatory Note

This Regulation amends the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg. L) (“the principal Regulation”) for the following purposes –

- (a) to specify the waste disposal facilities that are available for disposal of construction waste and the inert content specifications that the construction waste must conform to in order to be accepted for disposal at those facilities (see sections 3 and 10);
- (b) to empower the Director of Environmental Protection (“the Director”) to regulate the delivery of waste by vessels to designated waste disposal facilities (see section 4(1) to (6));
- (c) to empower the Director to refuse to accept any waste at a designated waste disposal facility in such circumstances as he thinks fit and require information for determining whether or not to accept the waste at the facility (see new section 4(4A)(a) and (b) of the principal Regulation added by section 4(7));
- (d) to empower the Director to close a designated waste disposal facility temporarily (see new section 4(4A)(c) of the principal Regulation added by section 4(7));
- (e) to make it an offence for a person to make incorrect statement or give incorrect information (see section 6);
and
- (f) to specify additional premises as designated waste disposal facilities under Schedule 1 (see section 9).