

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

CB(1) 386/04-05(03)

**Summary of views/concerns  
(as at 25 November 2004)**

| <b>Subject/Clause</b>                                    | <b>Organization</b>  | <b>Concern/View</b>  | <b>Administration's response and follow-up action</b>   |
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| Construction waste disposal charging scheme (the Scheme) | Hong Kong General Chamber of Commerce (HKGCC)<br>(LC Paper No. CB(1)314/04-05(07)) | <p>The Scheme should be implemented as soon as possible but the Administration needs to address the concerns of waste haulers on the charging arrangements;</p> <p>The Scheme should be implemented in parallel with a programme to encourage the adoption of sustainable construction practices by the construction industry so as to reduce construction and demolition materials at source;</p> | <p>To address waste haulers' concerns about possible bad debt and cashflow problems, we have further revised the charging arrangement to remove on-site payment and require all charges to be paid through billing accounts.</p> <p>We have been carrying out various measures to encourage the construction industry to adopt practices to reduce construction and demolition materials at source. For instance, together with the Hong Kong Construction Association and the Real Estate Developers Association, the Environmental Protection Department (EPD) has produced a set of publicity materials including a leaflet, posters and video for promoting waste reduction in the construction industry. Moreover, the Buildings Department has issued a Practice Note providing guidelines for waste minimization in the planning, design and construction for private developments.</p> <p>The proposed construction waste disposal charging scheme is one of the important measures to encourage reduction of waste and recovery of construction materials.</p> |

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| <p>Construction waste disposal charging scheme<br/>(con't)</p> |  | <p>The ultimate goal is to implement landfill charging for other wastes, including domestic waste; and</p> <p>The Administration should increase the penalty for illegal dumping and strengthen enforcement.</p>   | <p>With the experience gained from the implementation of the charging scheme for construction waste, we aim to extend the charging scheme to cover also municipal solid waste in the longer term.</p>  |
|  | <p>Hong Kong Institution of Engineers (HKIE)<br/>(LC Paper No. CB(1)314/04-05(06))</p> | <p>The risk of illegal dumping and fly tipping will be increased after the implementation of the Scheme. To tackle the problem, consideration should be given to increasing the level of penalty and including penalty provisions in public tender documents to penalize the wrong doers</p> | <p>As a measure to deter illegal dumping, in addition to fine and imprisonment sentence, amendments have been made to the Waste Disposal Ordinance (WDO) (Cap. 534) to provide that a Magistrate may order the convicted person(s) to remove the flytipped waste on Government land. A person who fails to comply with an order made against him commits an offence. Moreover, in cases where the Government would need to take immediate remedial actions to remove waste at flytipping sites so as to minimize imminent environmental risks, the Magistrate may order the convicted persons to pay the removal cost incurred by the Government as appropriate.</p> <p>The Lands Department, which is responsible for administering Government land, would take measures to prevent illegal dumping at Government land. Other departments including EPD, Food, Environment and Hygiene Department, Agriculture, Fisheries and Conservation Department, Housing Department, Marine Department, and Hong Kong Police Force would step up inspections and enforcement to curb illegal dumping. Also, these departments could issue Fixed Penalty Notice under Fixed Penalty (Public Cleanliness Offences) Ordinance to offenders who have unlawfully deposited waste in public places.</p> |

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| <p>Construction waste disposal charging scheme<br/>(<i>cont'd</i>)</p> | <p>Environmental Contractors Management Association<br/>(LC Paper No. CB(1)314/04-05(02))</p>              | <p>The Administration should step up publicity on the Scheme since many small and medium enterprises (SMEs), particularly those one-man companies, have yet to recognize the effect which the Scheme will have on their business.</p>  | <p>Upon completion of LegCo's scrutiny of the relevant regulations, we will carry out publicity and education programmes to widely publicize the implementation of the construction waste disposal charging scheme. We will also provide advice to the relevant parties, including small renovation contractors, to assist them in complying with the legal requirements.</p>   |
|  | <p>Provisional Construction Industry Co-ordination Board (PCICB)<br/>(LC Paper No. CB(1)314/04-05(08))</p> | <p>Adequate flexibility should be allowed for timely adjustment of the operating procedures;</p> <p>While existing contracts would not be subject to disposal charges, appropriate arrangements should be made to enable the disposal of the construction waste arising from these contracts in accordance with the new statutory provisions;</p> <p>Collection points at suitable locations should be set up to minimize the impact of waste disposal on traffic; and</p> | <p>After completion of LegCo's scrutiny of the relevant regulations, there will be at least six months before the charging scheme actually commences. This is to allow time upgrading equipment at waste disposal facilities for processing applications, conducting dry runs and allowing the trades to adjust to the operation procedures, etc.</p> <p>After the implementation of the charging scheme, construction wastes generated from construction works have to be disposed of according to the provisions in the regulations. Contractors undertaking construction works under a contract of which the tender closing date is before the commencement of the regulations may apply for an exemption account through which the same procedures for disposal of construction waste would apply except that no charge will be levied.</p> <p>Barging points have been provided to receive public fill in order to reduce vehicular traffic. For the mixed construction or non-inert construction waste, delivery would have to be made directly to the landfills.</p> |

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| <p>Construction waste disposal charging scheme<br/>(cont'd)</p> |   | <p>Effective measures should be mapped out to control the disposal of construction waste on private land, particularly agricultural land in the New Territories, after the implementation of the Scheme.</p>  | <p>We share the concern of disposal of construction waste on private land. As this is a planning issue, concerted efforts from various bureaux and departments is required.</p> <p>One of the options explored is to amend the Environmental Impact Assessment Ordinance (EIAO) (Cap 499) so that landfilling activities of a certain scale would require an environmental permit.</p> <p>Meanwhile, Housing, Planning and Lands Bureau is reviewing the possibility of amending the Town Planning Ordinance to strengthen control over such activities on private land.</p> |
|   | <p>Hong Kong Waste Disposal Industry Association (HKWDIA)<br/>(LC Paper No. CB(1)314/04-05(03))</p> | <p>Consideration should be given to the following issues with a view to formulating a charging scheme that could balance the interest of all parties –</p> <p>(a) a monitoring committee should be set up by the Administration to oversee the operation of the Scheme;</p> | <p>The Tripartite Working Group will continue to hold meetings after the implementation of the charging scheme to discuss the operational details and to obtain feedback from the trades.</p>  |

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| <p>Construction waste disposal charging scheme<br/>(cont'd)</p> |              | <p>(b) a registration mechanism should be established. It would be an offence for those who are not waste producers to register under the mechanism;</p> <p>(c) a communication mechanism should be set up to avoid queuing at the weighbridge as a result of billing problems;</p> <p>(d) trip tickets should serve as confirmation of receipt of waste by waste haulers from the waste producers and the former should not be required to sign any documents;</p> <p>(e) contingency measures should be worked out before the implementation of the charging scheme to avoid queuing at gates;</p> | <p>The proposed regulation requires all charges to be paid through billing accounts. It would be an offence for major waste producers, namely main contractors undertaking contracts of more than \$1 million not to set up an account within 21 days from the contract award date.</p> <p>As it is not feasible to identify whether an applicant is a waste producer or not, we are unable to make the opening of a billing account by a non-waste producer an offence.</p> <p>The Government is considering the feasibility of setting up a system to alert waste haulers on the status of the billing account. One of measures is to set up an automatic telephone enquiry system by which waste haulers can key in the account number printed on the chit and then check the validity of the account before commencing their delivery journey.</p> <p>Under the proposed chit and account billing system, waste haulers are not required to sign on the chits. All waste haulers have to do is to obtain a chit from the waste producer for delivery of construction waste to the designated waste disposal facilities. A receipt will be issued to the waste haulers at the disposal facilities for their record.</p> <p>Contingency measures are in place to regulate traffic at the designated waste disposal facilities.</p> |

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| <p>Construction waste disposal charging scheme<br/>(cont'd)</p> |              | <p>(f) the working procedure of waste haulers within the payment mechanism should be simplified;</p> <p>(g) waste haulers should not pay the disposal charges upfront to avoid setting up of bad precedents and inducing unfair competition;</p> <p>(h) clear guidelines should be put in place so that waste producers will know the difference between inert and non-inert materials, thereby minimizing the operational difficulties of waste haulers;</p> <p>(i) how to determine the types of wastes, the ratio between construction and domestic wastes as well as humidity and density of waste; and</p> <p>(j) operation of the tripartite working group should continue to promote understanding and undertake follow-up action.</p> | <p>Waste haulers only need to obtain a chit from the waste producers for delivery of construction wastes to the designated waste disposal facilities.</p> <p>All charges will be paid through billing accounts set up by waste producers. Waste haulers are not required to pay the disposal charges at the site.</p> <p>Clear and objective guidelines will be drawn up on differentiating inert and non-inert materials. Such guidelines will be disseminated to the trades and explained at the Tripartite Working Group meetings.</p> <p>A reference table developed from numerous data collection which indicates the inert content percentage of a wasteload for a certain weight will be used and made known to the trades. We will take into account the trades' comments before finalizing the reference table and will review it regularly after implementation of the charging scheme.</p> <p>The Tripartite Working Group will continue to hold meetings after the implementation of the charging scheme to discuss the operational details and to obtain feedback from the trades.</p> |

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| Construction waste disposal charging scheme<br>(cont'd) | The Real Estate Developers Association of Hong Kong<br>(LC Paper No. CB(1)314/04-05(09)) | A long-term solution to address the eventual filling up of the existing landfills is required.  | We have been adopting a comprehensive waste management strategy, which comprises three key elements, namely waste prevention and recovery in the first place; followed by reuse and recycling; and finally treatment and disposal of unrecyclable waste. The proposed construction waste disposal charging scheme is one of the essential components as it provides economic incentive for waste producers to reduce/recycle waste.  |
|   | Contractor's Authorised Signatory Association Ltd<br>(LC Paper No. CB(1)314/04-05(04))   | <p>The proposed deposit for a billing account is a heavy burden on SMEs, particularly amid the economic restructuring. Consideration should be given to waiving the deposit requirement for all Government contractors. Instead of charging the contractors, the relevant Government departments should be required to settle the payment direct with a credit of 14 days;</p> <p>The existing payment system through which levies to Government are paid by contractors should be applied to the disposal charges; and</p> <p>Concern over the operation of the Scheme, particularly in respect of classification of waste. A trial period of at least six months is recommended before the Scheme is implemented.</p> | <p>We will discuss the deposit arrangement with the trades with a view to devising an arrangement that will address these concerns.</p> <p>The proposed payment system is similar to those of services provided by public utilities such as water and electricity.</p> <p>After completion of LegCo's scrutiny of the relevant regulations, there will be at least six months before the charging scheme actually commences. This is to allow time upgrading equipment at waste disposal facilities for processing applications, conducting dry runs and allowing the trades to adjust to the operation procedures, etc.</p> |

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| <p>Construction waste disposal charging scheme<br/>(<i>cont'd</i>)</p> | <p>Hong Kong Dumper Truck Drivers Association (HKDTA)<br/>(LC Paper No. CB(1)314/04-05(01))</p> | <p>The Administration fails to accept the trades' request that all waste producers should be required to open a billing account for direct settlement of disposal charges. It also fails to address the trades' concerns about bad debt and unfair competition;</p> <p>EPD should continue to collect and analyze data on the content of inert materials in construction waste with a view to determining the different types of waste, including construction waste, domestic waste and recyclables. EPD should also work out a clear guideline on the composition of inert materials for reference of the trades;</p> <p>A communication mechanism should be established so that waste haulers will not be turned away at the weighbridge in the event of billing problems;</p> <p>Contingency plan should be worked out to deal with problems such as safety and queuing at the weighbridge;</p> | <p>To alleviate waste haulers' concern, we have removed the on-site payment requirement. It is a mandatory requirement under the proposed regulation that all major waste producers, viz. the main contractor who undertakes construction work with contract value of \$1 million or above to set up billing accounts with the Government to settle the disposal charges. These major waste producers are mainly construction contractors who generate about 70-80% of construction waste. The regulation also requires that all charges from all waste producers, large or small, to be paid through billing accounts.</p> <p>A reference table developed from numerous data collection which indicates the inert content percentage of a wasteload for a certain weight will be used and made known to the trades. We will take into account the trades' comments before finalizing the reference table and will review it regularly after implementation of the charging scheme.</p> <p>An automatic telephone enquiry system will be set up by EPD by which waste haulers can key in the account number printed on the chit to check the validity of the account before commencing their delivery journey.</p> <p>Contingency measures are in place to regulate traffic at the designated waste disposal facilities.</p> |

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| <p>Construction waste disposal charging scheme<br/>(<i>cont'd</i>)</p> | <p>HKDTA<br/>(con't)</p>   | <p>Tripartite Working Group should be set up to meet regularly to monitor and review the operation of the Scheme; and</p> <p>The performance pledges to be made by the Government to improve the road condition, queuing time and lighting etc of reception facilities after the implementation of the Scheme.</p>                | <p>The Tripartite Working Group will continue to hold meetings after the implementation of the charging scheme to discuss the operating details and to obtain feedback from the trades.</p> <p>We will continue to improve our services to the users of the waste disposal facilities. Both EPD and CEDD will continue to conduct liaison meetings with the trades to discuss the operation details of waste disposal facilities.</p>        |
|  | <p>Hong Kong Construction Association (HKCA)<br/>(LC Paper No. CB(1)329/04-05(01))</p> | <p>The Scheme should not impose extra burden on contractors, particularly on the financial aspect;</p> <p>Exemption should not be confined to contracts that have been awarded before the commencement of the Scheme but should be extended to all contracts that have been tendered before the implementation of the Scheme;</p> | <p>The Scheme is aimed at introducing an economic incentive to reduce waste and divert construction waste from landfills.</p> <p>We agree to the proposal of relaxing the criterion for the application for exemption accounts. We propose to amend the regulation to allow contractors undertaking works under contracts of which the tender closing date is before the commencement of the regulation to apply for exemption accounts.</p> |

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| <p>Construction waste disposal charging scheme<br/>(cont'd)</p> |              | <p>To review the deposit requirement for billing accounts given its financial impact on contractors. Consideration should be given to –</p> <p>(a) exempting those contractors who are on the list maintained by individual Government bureaux / departments;</p> <p>(b) reducing the deposit and refunding the account holders (with interest calculated at prevailing rate) upon the closure of the account; and</p> | <p>(a) We are unable to exempt contractors from the deposit requirement. Since a long credit period has been provided, the deposit required should be of a reasonable amount sufficient to serve as security covering the waste disposal services provided in advance and where instant payment was not made at the point of provision of service.</p> <p>(b) We will discuss the deposit arrangement with the trades with a view to devising an arrangement that will address the concern of financial burden. To be consistent with the deposit requirement of other public utilities, such as waster supply, no interest would be given on the deposit vested in the Government upon closure of the account.</p> |
|   | HKCA         | <p>To extend the credit period from 30 days to 45 days. The period should be further extended if contractors can provide proof of default in payment by main contractors.</p>  | <p>We agree to extend the payment period from 30 to 45 days. We propose to amend the regulation to this effect.</p>   |
|   | HKIE         | <p>Reference should be made to current practices to minimize the amount of construction waste. For instance, stabilization of slopes by means of soil nails is more effective than slope-flattening in reducing the amount of soil to be excavated for disposal. Refurbishment of buildings is also a practical alternative than demolition.</p>   | <p>Noted.</p>   |

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| Levels of disposal charges                        | PCICB        | Instead of imposing a fixed sorting charge, consideration should be given to levying the charge according to the actual percentage of the inert content.  | Due to the cost effectiveness of the sorting process and the site constraints of the sorting facilities, it would be difficult/not practical to levy the charge according to the actual percentage of inert content for each waste load.   |
|   | HKDTA        | To advise the level of charge payable for disposal of waste at refuse transfer stations in outlying islands.  | According to Part 2 of Schedule 2 of Waste Disposal (Charges for Disposal of Construction Waste) Regulation, the charge for disposal of construction waste at refuse transfer stations in outlying islands, regardless of the inert content, will be \$12.5 per 0.1 tonne (i.e. \$125 per tonne).  |
| Measures to reduce and recycle construction waste | HKGCC        | <p>The Administration to –</p> <p>(a) take on renewed effort to raise public awareness on the waste problem and to educate the public to reduce, reuse and recycle waste;</p> <p>(b) conduct a study on the costs and benefits of Government intervention into recycling;</p> | <p>To encourage the public to participate in waste recovery and reduction, the Government has been carrying out a series of publicity and public education programmes. Since its establishment in 1990, the Environmental Campaign Committee has organized various activities every year to raise the environmental awareness among the public. We will continue to launch various programmes to encourage the public to participate more actively in reducing waste and recycling recyclable materials.</p> <p>We are drawing up measures to facilitate the recycling industry.</p> |

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| <p>Measures to reduce and recycle construction waste<br/>(con't)</p> |              | <p>(c) look into measures to reduce packaging waste; and</p> <p>(d) actively explore the option of using clean and efficient incinerators for bulk reduction of waste.</p>   | <p>We are examining the possibility of introducing product responsibility schemes for different products, including vehicle tyres, rechargeable batteries, electronic and electrical appliances, and beverage containers with a view to reducing waste and promoting waste recovery in Hong Kong. The Government will carefully assess the costs and benefits of different options for such schemes and their impacts on stakeholders. The views of all sectors concerned will be considered.</p> <p>There are various technological options in waste management. Incineration is but one of them. We are examining the various technology options developing large-scale waste management facilities in Hong Kong and will consult the public before a decision is made.</p> |
|  | <p>HKIE</p>  | <p>Financial and other incentives, such as cheap land, loans and preferential procurement of the recycled materials, should be provided to encourage private investments in the development of the recycling industry.</p> | <p>The Lands Department will continue to lease land under short-term tenancies exclusively to recyclers, which is an important measure to help recyclers who cannot afford to purchase private land to start up business. The Government is planning the establishment of the Recovery Park at Tuen Mun Area 38 to provide long-term land for the development of the recycling industry.</p> <p>The Government is pursuing a green policy in its procurement procedure. We will introduce more elements to make Government procurement more "green".</p>  |

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| <p>Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004</p> | <p>HKDTA</p> | <p>A notice of 60 days should be included in proposed section 4(7)(c) so that the trades could be informed of the closure of a designated waste disposal facility in advance;</p> <p>To explain proposed section 5 regarding offence of causing disruption or disorder; and</p> | <p>The power in section 4(7)(c) is meant to be exercised in case of emergency which includes unforeseen situations such as the hoisting of typhoon signal, thunderstorm, breakdown of the facility or urgent repair or modifications of the facilities. Since these situations could not be foreseen, it is difficult to give an advance notice for as long as 60 days. In practice, if a facility is closed temporarily in case of emergency, notice would be given through mass media as quickly as practicable to avoid causing confusion to the public.</p> <p>Section 5(1) is an existing offence and is intended to prevent a person from intentionally causing disruption or disorder of the operation of a Government designated waste disposal facility. For example, it is essential for a waste hauler to follow closely instructions given by the Government to dispose of the waste at a particular place within the landfill or a public fill reception. He cannot just dispose of the waste at or near the entrance of the facility as this will obstruct the entrance and disrupt the service provided to other uses. The amendment to section 5(2) aims at making compliance with the orders of an authorized officer an additional ground of the statutory defence provided to a person charged with the offence.</p> |

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|   |              | <p>To explain how the term “recklessly” under proposed sections 5A(b) and (c) should be interpreted and how the penalty at level 6 is arrived at.</p> | <p>The prosecutor has to bear the onus of proving the mental element of "knowingly" or "recklessly" in addition to the physical element of the offence involving incorrect information. The standard of proof is "beyond reasonable doubt" for all the elements.</p> <p>As the information provided in relation to the disposal of construction waste could involve the collection of significant amount of disposal charges and Government revenue up to the order of a penalty of level 6 or more, the proposed penalty level is reasonable.</p> <p>This level of penalty is the same as provided in section 23B of WDO and section 13(d) of the Ozone Layer Protection Ordinance (Cap. 403).</p> |
| <p>Waste Disposal (Charges for Disposal of Construction Waste) Regulation</p> | <p>HKDTA</p> | <p>To explain how the term “recklessly” under proposed sections 22(b) and (c) should be interpreted.</p>  | <p>The prosecutor has to bear the onus of proving the mental element of "knowingly" or "recklessly" in addition to the physical element of the offence involving incorrect information. The standard of proof is "beyond reasonable doubt" for all the elements.</p>  |

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| Waste Disposal (Charges for Disposal of Construction Waste) Regulation ( <i>cont'd</i> ) |  | To explain the situation when failure to record the gross weight of a vehicle at the out-weighbridge under proposed sections 17(2) and (3) is due to the breakdown of computer or weighbridge.  | For the situation of electricity failure, computer or weighbridge breakdown, etc, in which it is impracticable to ascertain the weight of the construction waste carried by a vehicle, the minimum charge will apply, i.e. each load will be regarded as 1 tonne for landfills, sorting facilities and public fill reception facilities for charging according to item (c) in Part 2 of Schedule 1, 3 and 4 of the Waste Disposal (Charges for Disposal of Construction Waste) Regulation, which each load will be regarded as weighing 0.1 tonne at refuse transfer stations according to item (c) in Part 2 of Schedule 2 to that regulation. |
|  | Hong Kong Waste Management Association (LC Paper No. CB(1)314/04-05(05)) | While proposed section 3(5) stipulates that construction waste delivered by a vehicle owned by the Government or arising from the operation of a prescribed facility may be accepted for disposal without the need for a billing account, the Administration should take the lead to charge the relevant Government departments, thereby encouraging them to minimize waste production. | The Government would endeavour to take the lead in minimizing waste.<br><br>If the future sorting facilities were operated by the Government, the construction waste so separated would have to be delivered to the appropriate facilities, i.e. landfill for non-inert construction waste and public fill for inert construction waste, for final disposal. Section 3(5) exempts the transfer of these sorted waste from the sorting facilities to the respective designated waste disposal facilities for final disposal.   |