

立法會
Legislative Council

LC Paper No. CB(1)990/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/SS/6/13

**Subcommittee on Waste Disposal (Designated Waste Disposal Facility)
(Amendment) Regulation 2013 and Waste Disposal (Refuse Transfer
Station) (Amendment) Regulation 2013**

**Minutes of meeting held on
Thursday, 9 January 2014, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon WU Chi-wai, MH (Chairman)
Hon Emily LAU Wai-hing, JP
Hon Cyd HO Sau-lan
Hon Frankie YICK Chi-ming
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Dr Hon Elizabeth QUAT, JP
Hon POON Siu-ping, BBS, MH
Hon Tony TSE Wai-chuen

Members absent : Hon Ronny TONG Ka-wah, SC
Hon CHAN Hak-kan, JP
Hon Alice MAK Mei-kuen, JP

Public Officers attending : Agenda item I

Mr Howard CHAN, JP
Deputy Director of Environmental Protection (2)
Environmental Protection Department

Dr Ellen CHAN
Assistant Director of Environmental Protection
(Environmental Infrastructure)
Environmental Protection Department

Mr Samson LAI
Assistant Director of Environmental Protection
(Waste Management Policy)
Environmental Protection Department

Mr Lawrence LAU
Principal Environmental Protection Officer
(Waste Facilities)
Environmental Protection Department

Mr Alan CHONG
Senior Government Counsel
Department of Justice

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)5

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Ms Angel SHEK
Senior Council Secretary (1)4

Action

I Meeting with the Administration

- (LC Paper No. CB(1)689/13-14(01) — List of follow-up actions arising from the discussion at the meeting on 2 January 2014
- LC Paper No. CB(1)689/13-14(02) — Administration's response to the issues arising from the discussion at the meeting on 2 January 2014
- LC Paper No. CB(1)665/13-14(01) — Administration's proposed amendments to the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013
- LC Paper No. CB(1)699/13-14(01) — Submission from Environmental Contractors Management Association (English version only)

LC Paper No. CB(1)699/13-14(02) — Submission from Hong Kong Waste Disposal Industry Association Limited (Chinese version only))

Other relevant papers

(LC Paper No. CB(1)639/13-14(03) — List of follow-up actions arising from the discussion at the meeting on 23 December 2013

LC Paper No. CB(1)639/13-14(04) — Administration's response to the issues arising from the discussion at the meeting on 23 December 2013

LC Paper No. CB(1)581/13-14(01) — Letter dated 12 December 2013 from Legal Service Division to the Administration

LC Paper No. CB(1)581/13-14(02) — Reply letter dated 20 December 2013 from the Administration to Legal Service Division

LC Paper No. CB(1)581/13-14(03) — List of follow-up actions arising from the discussion at the meeting on 13 December 2013

LC Paper No. CB(1)581/13-14(04) — Administration's response to the issues arising from the discussion at the meeting on 13 December 2013

L.N. 188 — Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013

L.N. 189 — Waste Disposal (Refuse Transfer Station) (Amendment) Regulation 2013

File Ref: (7) in EP CR 9/150/38 — Legislative Council Brief

LC Paper No. LS18/13-14 — Legal Service Division Report

LC Paper No. CB(1)507/13-14(01) — Marked-up copy of Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 prepared by the Legal Service Division (*Restricted to members*)

LC Paper No. CB(1)507/13-14(02) — Marked-up copy of Waste Disposal (Refuse Transfer Station) (Amendment)

Regulation 2013 prepared by the
Legal Service Division
(Restricted to members)
LC Paper No. CB(1)507/13-14(03) — Paper on Waste Disposal
(Designated Waste Disposal
Facility) (Amendment)
Regulation 2013 and Waste
Disposal (Refuse Transfer
Station) (Amendment)
Regulation 2013 prepared by the
Legislative Council Secretariat
(Background brief))

Discussion

The Subcommittee deliberated (Index of proceedings attached at the **Appendix**).

2. Members raised no objection to the Administration's proposed amendments to section 4 of the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 in respect of the offence in relation to the new requirements of refuse collection vehicles (Annex A to LC Paper No. CB(1)689/13-14(02)).

Way forward

3. The Chairman concluded that the Subcommittee had completed scrutiny of the two amendment regulations, and the Subcommittee would not propose any amendment to them. Members noted that the scrutiny period for the two amendment regulations had been extended to the Council meeting of 22 January 2014 and the deadline of giving notice of amendments was 15 January 2014. Members further noted that the Chairman would make a verbal report on the deliberations of the Subcommittee at the House Committee meeting on 10 January 2014.

(Post-meeting note: The written report of the Subcommittee was circulated to members vide LC Paper No. CB(2)690/13-14 on 15 January 2014.)

II Any other business

4. There being no other business, the meeting ended at 10:14 am.

Council Business Division 1
Legislative Council Secretariat
25 February 2014

**Proceedings of meeting of the
Subcommittee on Waste Disposal (Designated Waste Disposal Facility)
(Amendment) Regulation 2013 and Waste Disposal (Refuse Transfer Station)
(Amendment) Regulation 2013
on Thursday, 9 January 2014, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Meeting with the Administration			
000233 – 000423	Chairman	Opening remarks	
000424 – 002418	Administration Chairman	<p>Briefing by the Administration on its response to issues arising from the meeting held on 2 January 2014 as set out in LC Paper No. CB(1)689/13-14(02) and to the submissions dated 8 January 2014 from the Environmental Contractors Management Association and Hong Kong Waste Disposal Industry Association Limited (LC Paper Nos. CB(1)699/13-14(01) and (02) respectively)</p> <p>In reply to the Chairman, the Administration advised that –</p> <p>(a) it planned to commence the Waste Disposal (Refuse Transfer Station) (Amendment) Regulation 2013 for reduction of refuse transfer station ("RTS") fees at an earlier time for private waste collectors to enjoy the adjusted fees and to get used to using the appropriate RTSs, as soon as the contractors of the Food and Environmental Hygiene Department ("FEHD") had been diverted to free up spare capacity of RTSs for use by private waste collectors;</p> <p>(b) the commencement date for the South East New Territories ("SENT") Landfill to receive only construction waste would be determined by taking into account the Legislative Council ("LegCo")'s approval of the SENT Landfill extension and progress of preparation for waste diversion by private waste collection trade and FEHD and its contractors;</p> <p>(c) the new equipment requirements for refuse collection vehicles ("RCVs") would take effect having regard to the progress of RCV retrofitting works which were expected to be completed by the first quarter of 2015; and</p>	

Time marker	Speaker	Subject(s)	Action required
		(d) the commencement dates for the legislative amendments would be appointed by the Secretary for the Environment by notices published in the Gazette subject to LegCo's vetting.	
002419 – 003623	Chairman Mr Frankie YICK Assistant Legal Adviser 6 ("ALA6") Administration	<p>Discussion on the estimated cost implications on the private waste collection trade after waste diversion (paragraph (b) of LC Paper No. CB(1)689/13-14(02)).</p> <p>In reply to Mr Frankie YICK and ALA6, the Administration explained that the proposed amendments to section 4 of the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 ("DWDF Amendment Regulation") (paragraph (g) of and Annex A to LC Paper No. CB(1)689/13-14(02)) was to amend the offence provision in relation to the new RCV requirements in order to provide for situation where the RCV driver was acting on the instructions of the driver's employer and to provide for a "due diligence" defence. A different approach from the offence provision on unlawful depositing of waste under section 16A of the Waste Disposal Ordinance (Cap. 354) was adopted in view of the specific requirements for RCVs.</p>	
003624 – 004443	Chairman Ms Emily LAU Administration	<p>Ms Emily LAU reiterated her concern about the viability of small operators of the waste collection trade after waste diversion, and that the potential increase in the trade's operating costs would be passed onto households prematurely before consideration of the future municipal solid waste ("MSW") charging.</p> <p>The Administration explained that the estimated costing implications on the trade would vary with waste routes, payload for disposal, etc. The Administration undertook to continue discussion with the trade on the transitional arrangements and facilitate the trade operators to liaise with their clients on contract variation to reflect the increased cost, if any.</p>	
004444 – 005245	Chairman Dr Elizabeth QUAT Administration	<p>In reply to Dr Elizabeth QUAT, the Administration clarified that there would be a 12-month transitional period after passage of the DWDF Amendment Regulation.</p> <p>Dr Elizabeth QUAT expressed concern that, as the commencement date was to be appointed later depending on the progress of the waste collection trade's necessary preparation, the trade might procrastinate by continuing with their existing practice</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>of delivering MSW to the SENT Landfill indefinitely, which would delay the implementation of waste diversion and mitigation of the environmental nuisance arising from the operation of the SENT Landfill.</p> <p>The Chairman opined that the commencement dates for the legislative amendments could not be unduly procrastinated in view of the implementation timetable of the one-off subsidy scheme for RCV retrofitting works, the imminent need of waste diversion upon exhaustion of the SENT Landfill capacity, and the limited scrutiny period of the two Amendment Regulations under the negative vetting procedure, etc.</p> <p>The Administration advised that while existing FEHD users and its contractors would commence to divert MSW from the SENT Landfill, which would help minimize the environmental nuisance from the SENT Landfill; it would take time for the private waste collection trade to make necessary arrangements including sorting out of any contractual issues with their clients before they could adjust their collection schedules and routes.</p>	
005246 – 005725	Chairman Mr Frankie YICK Administration	<p>Mr Frankie YICK pointed out that small operators in the waste collection trade might have difficulty in passing the increased operating costs onto their service users (e.g. building management committees or owners' corporations). He relayed the suggestion from the private waste collection trade that the legislative amendments might take effect in parallel with a transitional period during which RTS fees would be exempted.</p> <p>The Administration reiterated the adverse impact of RTS fee exemption on RTS utilization and existing RTS users having regard to the limited RTS design capacities. Nevertheless, the Administration would consider a free trial period for familiarization with the Shatin Transfer Station before waste diversion as it was currently not opened to private waste collectors.</p>	
005726 – 005830	Chairman Mr POON Siu-ping Administration	<p>In reply to Mr POON Siu-ping, the Administration advised that FEHD contractors of waste collection services would be diverted from the relevant RTSs within the 12-month transitional period after making the necessary arrangements including re-routing and sorting out any contractual issues.</p>	

Time marker	Speaker	Subject(s)	Action required
005831 – 010340	Chairman Dr Elizabeth QUAT Administration	<p>Dr Elizabeth QUAT expressed concern that the increased operating costs of the private waste collection trade after waste diversion to fee-charging RTSs, if passed onto households, would be tantamount to MSW charging.</p> <p>The Administration stressed that RTS fees were collected for use of RTS services by the private waste collectors and should not be regarded as a levy on waste producers. The cost implications on the trade after waste diversion hinged on the collection routes, payload for disposal, etc, and the estimated increase in the trade's operating costs by about 8% to some 10% was not commercially unviable.</p>	
010341 – 011346	Chairman Ms Emily LAU Administration	<p>The Administration took members through the Waste Disposal (Refuse Transfer Station) (Amendment) Regulation 2013 and the DWDF Amendment Regulation with the proposed amendments to the offence provision in relation to the new RCV equipment requirements as set out in Annex A to LC Paper No. CB(1)689/13-14(02).</p> <p>Discussion on the possible scenarios that the driver or the driver's employer might have criminal liability or "due diligence" defence for committing the offence.</p> <p>Members raised no objection to the Administration's proposed amendments to the offence provision.</p>	
011347 – 011425	Chairman	<p>Concluding remarks</p> <p>Legislative timetable and way forward</p>	