

**Paper for the House Committee Meeting
on 27 June 2003**

**Legal Service Division Report on
Waste Disposal (Amendment) Bill 2003**

I. SUMMARY

1. **Objects of the Bill** To control the management of clinical waste and the disposal of imported waste; and to give effect to the Basle Ban in Hong Kong.
2. **Comments** The Bill -
 - (a) extends the provisions relating to licensing of waste collection made under the Waste Disposal Ordinance (Cap. 354) ("the Ordinance") to cover "clinical waste";
 - (b) provides that disposal of uncontaminated waste imported for the purpose of a reprocessing, recycling or recovery operation or the reuse of the waste at a designated waste disposal facility requires an authorization granted by the Director of Environmental Protection; and
 - (c) incorporates the Basle Ban into the Ordinance.
3. **Public Consultation** According to the LegCo Brief, the Administration has consulted various interested parties on the Clinical Waste Control Scheme ("the Control Scheme") and the treatment of clinical waste by the Chemical Waste Treatment Centre ("CWTC"). Except Greenpeace and Kwai Tsing District Council, the respondents generally supported the proposals or had no comments on the proposal.
4. **Consultation with LegCo Panel**
 - (a) In March 1999, the Panel on Environmental Affairs ("EA Panel") was consulted on the Administration's plan to formalize the Basel Ban.
 - (b) The EA Panel and the Health Services Panel were jointly consulted on the Control Scheme and the plan to utilize the CWTC for treatment of clinical waste on 20 March 2002 and 23 May 2002 respectively.
 - (c) At the meeting of 23 May 2002, Members expressed concern about the safe handling of clinical waste, in particular, human tissues and body parts and stressed the need for proper handling and storage of clinical waste. Deputations were invited to give their opinions at the meeting. Greenpeace and Kwai Tsing District Council objected to the Administration's proposal to use CWTC to treat clinical waste. The waste collection industry also raised concerns on the control over collection and transport of clinical waste and urged the Administration to consult the industry on implementation details and charging arrangement and provide proper training to workers.
5. **Conclusion** The Legal Service Division is still scrutinizing the legal and drafting aspects of the Bill. In view of the concerns raised by Members, the public and the industry, Members may wish to form a Bills Committee to study the Bill in detail.

II. REPORT

Objects of the Bill

To control the management of clinical waste and the disposal of imported waste; and to give effect to the Basle Ban in Hong Kong.

LegCo Brief Reference

2. Members may refer to the LegCo Brief issued by the Environment, Transport and Works Bureau on 18 June 2003 (File Ref: ETWB(E) 55/03/144) for background information.

Date of First Reading

3. 25 June 2003.

Comments

4. The Bill amends the Waste Disposal Ordinance (Cap. 354) ("the Ordinance") in the following aspects:

- (a) Implementation of a Clinical Waste Control Scheme ("the Control Scheme")
 - (i) The Bill defines "clinical waste" and extends the provisions relating to licensing of waste collection made under the Ordinance to cover clinical waste.
 - (ii) The Administration has indicated in the LegCo Brief that the Chemical Waste Treatment Centre ("CWTC") will be designated as the facility to treat clinical waste and a disposal charge will be levied on clinical waste producers for use of the facility. Details of the Control Scheme will be set out in the Codes of Practice and the new Waste Disposal (Clinical Waste) (General) Regulation and the charge for use of CWTC will be prescribed in the new Waste Disposal (Charges for Disposal of Clinical Waste) Regulation; all of which are to be made under the Ordinance after the enactment of the Bill.

- (b) Authorization for disposal of certain imported waste
 - (i) Under the Ordinance, the import into Hong Kong of uncontaminated waste ("imported waste") for the purpose of a reprocessing, recycling or recovery operation or the reuse of the waste ("the specified purpose") does not require a permit issued by the Director of Environmental Protection ("the Director").
 - (ii) The Bill provides that the disposal of any imported waste at a designated waste disposal facility requires an authorization granted by the Director upon his satisfaction that it is not practicable to make alternative arrangement for the imported waste to be used for the specified purpose in a manner acceptable to the Director and it is not practicable for the imported waste to be returned to the state of export. The Director may require payment of the cost of disposal of the imported waste.
 - (c) Incorporation of the Basle Ban into the Ordinance
 - (i) In 1995, the parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Waste and Their Disposal agreed to ban the export of hazardous waste from state-members of the Organization for Economic Cooperation and Development, European Community and Liechtenstein to other states ("the Basle Ban").
 - (ii) According to the LegCo Brief, the Director has been implementing the Basel Ban administratively since December 1998.
 - (iii) The Bill proposes to incorporate the Basle Ban into the Ordinance.
5. (a) The provisions relating to the Basel Ban shall come into operation on the day on which the Bill is enacted and published in the Gazette.
- (b) Other provisions 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.

Public consultation

6. According to the LegCo Brief, the following public consultations were carried out :-

- (a) In 1999, the Advisory Council on the Environment ("ACE") examined the Environmental Impact Assessment Study Report which concluded that CWTC was able to treat clinical waste in an environmentally acceptable manner and endorsed the Report. In April 2002, the ACE was further consulted on the Control Scheme and supported the proposal.
- (b) In November 2001, the Administration issued a Consultation Document on the Control Scheme to the medical, Chinese medical, dental, nursing and veterinary sectors, green groups, academic institutions, waste collectors and other related organizations and attended eight meetings and discussion forums to explain the Control Scheme to the parties concerned. Except Greenpeace and Kwai Tsing District Council, respondents to the Consultation Document generally supported the proposal.
- (c) The Administration consulted the shipping industry and other stakeholders on the proposal to control disposal of imported waste in May 1999. Respondents either supported or had no comments on the proposal.
- (d) The implementation of the Basel Ban by the Director administratively since December 1998 have been made known to both local and overseas traders prior to the implementation.

Consultation with LegCo Panel

- 7. (a) The Panel on Environmental Affairs ("EA Panel") was consulted on the Administration's plan to formalize the Basel Ban in March 1999.
- (b) The EA Panel and the Panel on Health Services were jointly consulted on the Control Scheme and the plan to utilize the CWTC for treatment of clinical waste on 20 March 2002 and 23 May 2002 respectively.
- (c) At the meeting of 20 March 2002, Members decided to hold another meeting to invite views from deputations regarding the practicability of other treatment options.
- (d) At the meeting of 23 May 2002, Members expressed concern about the safe handling of clinical waste, in particular, human tissues and body parts and stressed the need for proper handling and storage of clinical waste.
- (e) At the same meeting, Hong Kong Private Hospitals Association agreed in principle to the Administration's proposal to treat clinical waste by

incineration at the CWTC on the understanding that only the operating cost but not the capital cost of CWTC would be recovered. The Conservancy Association held that proposed use of CWTC as an immediately available facility to treat clinical waste should only be regarded as a short-term solution and the Administration should, in the long run, work out a comprehensive clinical waste management strategy which was in line with the latest development in treatment technologies worldwide. Greenpeace strongly opposed to the Control Scheme and the proposal to incinerate clinical waste at CWTC. Kwai Tsing District Council objected to the Administration's proposal to use CWTC to treat clinical waste. Fai In Environmental Service Co pointed out that there was no established channel through which effective communication within the trade could be enhanced and emphasized the need for consultation with the trade on implementation details and charging arrangement. Hong Kong Safety Clinical Waste Treatment Ltd expressed concern that the proposed setting up of collection points and the provision of mobile collection service might jeopardize the business of waste collectors and hoped that control over collection and transport of clinical waste be stepped up on account of its safety hazard. Kam Ming E.P. Engineering Co Ltd suggested that the Administration should provide proper training to workers on the safe collection and transport of clinical waste to enhance protection for these workers. Tsang Lik Services Ltd pointed out that as most private clinics were situated in busy commercial districts, there was a need to ensure that the transport and collection of clinical waste would not pose hazard to public safety. Measures should be put in place to ensure compliance with the guidelines on the storage and handling of clinical waste.

8. Members may wish to refer to the minutes of the joint meetings of the EA Panel and the Panel on Health Services on 20 March 2002 (LC Paper No. CB(1)1768/01-02) and 23 May 2002 (LC Paper No. CB(1)2307/01-02) for details.

Conclusion

9. The Legal Service Division is still scrutinizing the legal and drafting aspects of the Bill. In view of the concerns raised by Members, the public and the industry, Members may wish to form a bills committee to study the Bill in detail.

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