

立法會
Legislative Council

LC Paper No. CB(1) 2409/03-04
(These minutes have been seen
by the Administration)

Ref: CB1/BC/4/03/2

**Bills Committee on
Waste Disposal (Amendment) (No. 2) Bill 2003**

**Minutes of the fifth meeting
held on Friday, 21 May 2004, at 10:45 am
in Conference Room B of the Legislative Council Building**

Members present : Dr Hon LAW Chi-kwong, JP (Chairman)
Hon LEE Cheuk-yan
Hon Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Hon Audrey EU Yuet-mee, SC, JP

Public officers attending : Environment, Transport and Works Bureau

Ms Doris CHEUNG
Deputy Secretary (Environment and Transport) E1

Mrs Teresa WONG
Principal Assistant Secretary (Environment and Transport) E2

Ms Joyce HO
Assistant Secretary (Environment and Transport) E2

Environmental Protection Department

Dr Ellen CHAN
Assistant Director (Waste Facilities)

Mr Edmond HO
Principal Environmental Protection Officer
(Waste Policy & Services)

Civil Engineering Department

Mr Michael LEUNG
Senior Engineer/Port Works

Department of Justice

Miss Shandy LIU
Senior Government Counsel

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Mary TANG
Senior Council Secretary (1)2

I. Confirmation of minutes

(LC Paper No. CB(1) 1880/03-04 -- Minutes of the meeting held on
13 May 2004)

The minutes of the meeting held on 13 May 2004 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1) 1800/03-04(03) -- Summary of views/concerns (as
at 12 May 2004)

LC Paper No. CB(1) 1882/03-04(01) -- List of follow-up actions arising
from the discussion on
13 May 2004

LC Paper No. CB(1) 1882/03-04(02) -- Administration's response to LC
Paper No. CB(1) 1882/03-04(01))

2. The Committee deliberated (Index of proceedings attached at **Annex A**).

3. The Administration was requested to -
- (a) consider requiring all renovation contractors to open billing accounts as in the case of the similar registration requirement for minor works under the Buildings (Amendment) Bill 2003, so as to ensure effective implementation of the Waste Disposal Charging Scheme and to avoid shifting of responsibility to sub-contractors;
 - (b) re-consider lowering the threshold for which penalty would be imposed on failure to open a billing account from \$1 million to \$0.5 million. Separate provisions however should be made for projects valued under \$1 million such that the principal contractors concerned were not required to open separate billing account for each project but to inform the Environmental Protection Department the account which disposal fees arising from additional projects should be charged from;
 - (c) advise the basis of the 14-day period within which a principal contractor should open a billing account was arrived at. To also consult the trade whether the 14-day period was adequate and whether it should commence upon the awarding or signing of a contract;
 - (d) step up education and publicity on the responsibility of renovation contractor to open billing accounts for disposal charges;
 - (e) liaise with relevant bureaux/departments on the need to strengthen enforcement against falling objects from open topped vehicles; and
 - (f) review the definition of “principal contractor” under the draft Waste Disposal (Charges for Waste Disposal) Regulation to make it clear that any person who entered into a contract with an owner or occupier of any land should be regarded as a principal contractor, and that there could be more than one principal contractor for a project.
4. The meeting ended at 12:45 pm.

**Proceedings of the meeting of the
Bills Committee on Waste Disposal (Amendment) (No. 2) Bill 2003
Meeting on Friday, 21 May 2004, at 10:45 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000050	Chairman	Introductory remarks and confirmation of minutes of the meeting held on 13 May 2004 (LC Paper No. CB(1) 1880/03-04)	
000051 - 000650	Chairman Administration	Administration's response to items 1, 2 and 4 of the list of follow-up actions arising from the discussion on 13 May 2004 (LC Paper No. CB(1) 1882/03-04(02))	
000651 - 000950	Chairman Ms Emily LAU Administration	<p>Administration's explanation on the progress of consultation with the trade on the proposed mode of operation of the Waste Disposal Charging Scheme (the Scheme) -</p> <p>(a) the trade welcomed the abolition of on-site payment and had accepted the reference table for the determination of waste content; and</p> <p>(b) tripartite discussions among the Administration, waste producers and waste haulers would continue</p>	

Time marker	Speaker	Subject(s)	Action required
000951 - 001300	Chairman Ms Audrey EU Ms LI Fung-ying Ms Emily LAU Ms Miriam LAU	Discussion on item 3 of LC Paper No. CB(1) 1882/03-04(02) on the need for registration of renovation contractors - Members' views - (a) requirement for registered renovation contractors to open billing accounts could be made a practice rather than a mandatory requirement; (b) with the passage of the Construction Workers Registration Bill, workers would likely be required by their employers to have their own business registration. As a result, they might also be required by contractors to open billing accounts for the purpose of waste disposal as well; (c) concern about shifting of responsibility for waste disposal to sub-contractors and need to require renovation contractors to register and open billing accounts; and (d) the Administration should not condone non-registration of renovation contractors as this might allow evasion of tax, insurance and other statutory requirements	The Administration to consider requiring all renovation contractors to open billing accounts as in the case of the similar registration requirement for minor works under the Buildings (Amendment) Bill 2003, to ensure effective implementation of the Waste Disposal Charging Scheme and to avoid shifting of responsibility to sub-contractors

Time marker	Speaker	Subject(s)	Action required
		<p>Administration's response -</p> <p>(a) practical and enforcement difficulties in imposing mandatory requirement for those registered as renovation contractors to open billing accounts; but no difficulty in encouraging them to do so as a good practice</p> <p>(b) mandatory registration of renovation contractors was a wider subject which should be pursued separately</p>	
001301 - 003017	Mr Albert CHAN	Concern about the serious implications of the mandatory registration of renovation contractors on the trade	
003018 - 003336	Chairman Mr Albert CHAN Ms Emily LAU Mr LEE Cheuk-yan	<p>(a) Agreement that the mandatory requirement for the registration of renovation contractors would be pursued separately; and</p> <p>(b) Divergent views expressed on the requirement for renovation contractors to open billing accounts</p>	

Time marker	Speaker	Subject(s)	Action required
003337 - 010105	Chairman Administration Mr Albert CHAN Mr Abraham SHEK Ms Miriam LAU Ms Emily LAU Ms Audrey EU	<p>Lowering the \$1 million threshold for which penalty would be imposed on failure to open billing accounts -</p> <p>Members' concerns -</p> <p>(a) whether sub-contractors of contracts valued \$1 million and above would need to open separate billing accounts;</p> <p>(b) need to review definition of principal contractor; and</p> <p>(c) there would be more than one principal contractor in the case of split contracts</p> <p>Administration's response -</p> <p>(a) waste disposal charges arising from a project valued \$1 million and above should be charged through the billing account of the principal contractor; and</p> <p>(b) the trade would prefer to open a separate billing account for disposal charges arising from each construction site</p>	<p>The Administration to review the definition of "principal contractor" under the draft Waste Disposal (Charges for Waste Disposal) Regulation to make it clear that any person who entered into a contract with an owner or occupier of any land should be regarded as a principal contractor, and that there could be more than one principal contractor for a project</p>

Time marker	Speaker	Subject(s)	Action required
010106 - 011143	Administration Mr LEE Cheuk-yan Chairman	(a) Discussion on the possibility of lowering the threshold from \$1 million to \$0.5 million; and (b) Member's suggestion of introducing a notification requirement for contracts valued between \$0.5 million and \$1 million	The Administration to re-consider lowering the threshold for which penalty would be imposed on failure to open a billing account from \$1 million to \$0.5 million. Separate provisions however should be made for projects valued under \$1 million such that the principal contractors concerned were not required to open separate billing account for each project but to inform the Environmental Protection Department the account which disposal fees arising from additional projects should be charged from
011144 - 011214	Mr Abraham SHEK Administration	Discussion on the basis of calculation of the 14-day period within which a principal contractor should open a billing account	The Administration to advise the basis of the 14-day period within which a principal contractor should open a billing account was arrived at
011215 - 011322	Miss CHOY So-yuk Chairman Mr LEE Cheuk-yan Administration	Discussion on the setting of threshold at \$0.5 million and the mandatory requirement for renovation contractors to open billing accounts	
011323 - 011735	Ms Emily LAU Ms Miriam LAU Administration Ms Audrey EU	Discussion on the basis of calculation of the 14-day period	The Administration to consult the trade whether the 14-day period was adequate and whether it should commence upon the awarding or signing of a contract

Time marker	Speaker	Subject(s)	Action required
011736 - 013420	Chairman Mr LEE Cheuk-yan Ms Emily LAU Miss CHOY So-yuk Administration Ms Miriam LAU	Discussion on whether waste haulers should be allowed to open billing accounts - (a) Members' concern that some waste haulers, in an attempt to attract more business, would open their own billing accounts but illegally dispose of the waste after collection of charges from waste producers; and (b) Administration's response on the need to rely on self-discipline of the trades as waste haulers would not be prohibited from opening billing accounts. Illegal disposal of waste would be an offence.	The Administration to step up education and publicity on the responsibility of renovation contractor to open billing accounts for disposal charges
013421- 014645	Chairman Administration Mr LEE Cheuk-yan ALA4	Discussion on the presumption provisions under new section 16A(2) - (a) Member's concern that the onus of proof would be on the defendant; and (b) Administration's explanation that prosecution action would not be taken unless there was reasonable prospect of conviction	
014646 - 014800	Chairman Ms Emily LAU Administration	Enforcement against falling objects from open topped vehicles	The Administration to liaise with relevant bureaux/departments on the need to strengthen enforcement against falling objects from open topped vehicles

Time marker	Speaker	Subject(s)	Action required
014801 - 015345	Chairman Ms Emily LAU Mr LEE Cheuk-yan	Members to examine draft Regulations and summary of views (LC Paper No. CB(1) 1800/03-04(03) at the next meeting	
015346 - 015715	Administration Ms Emily LAU Miss CHOY So-yuk	Legislative timetable	

Council Business Division 1
Legislative Council Secretariat
21 July 2004