

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2412/03-04

(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 eighth meeting  
held on Monday, 7 June 2004, at 4:30 pm  
in Conference Room A 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 Albert CHAN Wai-yip  
Hon Audrey EU Yuet-mee, SC, JP

**Members absent** : Hon Michael MAK Kwok-fung  
Hon LEUNG Fu-wah, MH, 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)

Dr David HA  
Senior 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

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**I. Meeting with the Administration**

Clause-by-clause examination of the Bill

(LC Paper No. CB(3) 234/03-04 -- The Bill

LC Paper No. CB(1) 1497/03-04(02) -- Marked-up copy of the Bill)

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

2. The Administration was requested to -
  - (a) refine the drafting of section 3(2) of the Waste Disposal (Charges for Waste Disposal) Regulation regarding the charging of waste which had been mixed with construction waste; and
  - (b) advise whether the Government could invoke the power conferred by the Bill to remove waste which had been deposited on private land before the coming into operation of the Bill.
  
3. The meeting ended at 6:20 pm.

Council Business Division 1  
Legislative Council Secretariat  
21 July 2004



**Proceedings of the meeting of the  
Bills Committee on Waste Disposal (Amendment) (No. 2) Bill 2003  
Meeting on Monday, 7 June 2004, at 4:30 pm  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 001025	Chairman Administration	Introductory remarks and the Administration's response to the list of follow-up action arising from the discussion on 3 June 2004	
001026 - 001357	Ms Miriam LAU Administration	<p>Discussion on new section 23 EA</p> <p>Member's concerns -</p> <p>(a) whether owners whose land had been deposited with waste without their consent could request the Director of Environmental Protection (DEP) to remove the waste; and</p> <p>(b) who should be responsible for the cost incurred from removal of waste</p> <p>Administration's response -</p> <p>(a) before entering the place to remove the waste, DEP had to be satisfied that the waste was deposited without owners' consent; that it would give rise to an imminent risk of adverse environmental impact; and that actions had to be taken immediately;</p> <p>(b) cost for removal of waste to be recovered from the person who had been charged for illegal deposit of waste under section 16A; and</p> <p>(c) owner of the place would not be held responsible for the cost if the person who deposited the waste without the owner's consent could not be found</p>	

Time marker	Speaker	Subject(s)	Action required
001358 - 001511	Ms Audrey EU	<p>(a) There might not be sufficient time to identify the owner and ascertain whether consent was obtained if there was an urgency to remove the waste; and</p> <p>(b) Owners should be responsible for the cost of removal if the person who deposited the waste without the owner's consent could not be found</p>	
001512 - 001700	Ms Miriam LAU Ms LI Fung-ying	<p>Owners who did not give consent for depositing of waste on their land should not be held responsible for the cost of waste removal because some owners, particularly those not residing in Hong Kong, might not be aware that waste had been deposited on their land</p>	
001701 - 001900	Chairman Administration	<p>Administration's explanation on the operation of section 23EA in the event that the owner of the land to which waste was deposited could not be contacted to ascertain whether consent was obtained -</p> <p>(a) circumstantial evidence, such as the waste was deposited in an unmanaged manner or did not match the surrounding environment, would raise suspicions on the lack of consent;</p> <p>(b) it was unusual that owners would give consent to the depositing of waste which would pose an imminent risk of adverse environmental impact; and</p> <p>(c) owners whose land had been deposited with waste without their consent were in fact victims and hence should not be responsible for the cost of removal</p>	

Time marker	Speaker	Subject(s)	Action required
001901 - 002320	Ms Emily LAU Administration Chairman	<p>Member's concern about inaction on the part of DEP in view of the stringent conditions under new section 23EA</p> <p>Administration's explanation that staff of Environmental Protection Department would exercise professional judgment in the light of the conditions of individual cases to ascertain whether the waste deposited would pose an imminent risk of adverse environmental impact that warrant immediate action</p>	
002321 - 002821	Chairman Miss CHOY So-yuk Administration	<p>Member's concern that some owners would try to destroy the ecological value of their land through dumping of waste and later require DEP to remove the waste</p> <p>Administration's explanation that land of ecological value were protected under Town Planning Ordinance, and that actions to remove waste on private land would only be taken if the conditions set out in new section 23 EA were all met</p>	
002822 - 003105	Chairman Administration Miss CHOY So-yuk Ms Miriam LAU	Discussion on disposal of hazardous waste which was subject to more stringent control under the current legislative framework	

Time marker	Speaker	Subject(s)	Action required
003106 - 005510	Chairman Administration Ms Miriam LAU Ms Emily LAU ALA4	<p>Clause-by-clause examination of Bill</p> <p>Clause 6 - When appeal may be brought</p> <p>Discussion on the mode of operation of the waste disposal charging scheme at disposal facilities -</p> <p>(a) facility operators would assess whether the content comprised mainly construction waste or municipal waste by the weight of the waste load at the weighbridge or by inspection at the tipping area;</p> <p>(b) any load of construction waste disguised as municipal waste, the whole load would be charged at the same rate as for the disposal of construction waste;</p> <p>(c) in the case of (b), instead of notifying the account holders at the end of the month, facility operators would immediately issue a receipt to waste haulers setting out the disposal charges to be debited from the billing accounts;</p> <p>(d) a note would be issued to waste haulers directing them to the proper waste facility to ensure that their same waste load would not be turned away twice by different reception facilities; and</p> <p>(e) DEP's decisions on the acceptance and charging of waste were not subject to appeal</p>	<p>The Administration to refine the drafting of section 3(2) of the Waste Disposal (Charges for Waste Disposal) Regulation regarding the charging of waste which had been mixed with construction waste</p>



Time marker	Speaker	Subject(s)	Action required
005511 - 010330	Miss CHOY So-yuk Administration Chairman	<p>Member's concern about problems associated with construction waste disguised as municipal waste delivered by waste haulers who claimed to have no billing accounts as they were supposed to be delivering municipal waste</p> <p>Administration's explanation -</p> <p>(a) facility operators could refuse to accept waste loads which did not tie in with the waste content prescribed in the regulations; and</p> <p>(b) if waste haulers still chose to dispose of the waste after knowing that the whole waste load would be charged as construction waste, administrative measures would be in place to charge these waste haulers by way of invoices</p>	
010331 - 010600	Ms Miriam LAU Chairman Administration	<p>Member's concerns -</p> <p>(a) as municipal solid waste mixed with construction waste would all be charged as construction waste, waste haulers (who might not be aware of the content of waste contained in bags) would not be able to recover the disposal charges from their employers if their mixed waste was charged as construction waste; and</p>	

Time marker	Speaker	Subject(s)	Action required
		(b) as there would be serious operational problems and the Administration would not be able to recover the disposal cost, the assessment of disguised waste should be done at the weighbridge only. The facility operators should simply turn away the loads instead. Once passed the weighbridge, the waste would not be assessed anymore at the tipping area	
010601 - 011813	Chairman Administration Mr Albert CHAN ALA4 Ms Miriam LAU	Clause 7 - Mental ingredients of certain offences under the Ordinance  Discussion on the Government's power under the Bill to remove waste which had been deposited on private land before the coming into operation of the Bill	The Administration to advise whether the Government could invoke the power conferred by the Bill to remove waste which had been deposited on private land before the coming into operation of the Bill
011814 - 013232	Chairman Administration Ms Miriam LAU	Clause 8 - Regulations  Clause 9 - Amendment of Schedules  Clauses 10 to 12	
013233 - 013900	Chairman Administration Ms Miriam LAU Ms Emily LAU	Examination of Committee Stage amendments proposed by the Administration. Members are content with the CSAs	
013901 - 014137	Chairman Administration Ms Emily LAU Ms Miriam LAU Mr Albert CHAN	Legislative timetable	