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Secretary for the Environment, Transport and Works
(Attn: Ms Joyce Ho, Assistant Secretary(E)2A)
Environment Branch
Environment, Transport and Works Bureau
10/F Citibank Tower
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20 April 2004

BY FAX
Fax No. : 2136 3304

Dear Ms Ho,

Waste Disposal (Amendment) (No. 2) Bill 2003

Thank you for your reply of 13 April 2004. We have the following question about your reply.

Clause 3 - New section 16A(5)

It appears from your answers in (a)-(d) that—

- (a) new section 16(A)(5)(a) is an independent defence with a procedural requirement for prior notice;
- (b) new section 16(A)(5)(b) is only a procedural requirement flowing from new section 16(A)(4)(b) being the substantive defence.

If the above analysis is correct, would it be appropriate to—

- (a) redraft subsections (4) and (5) so as to group substantive defences in one provision and deal with the procedural requirement in another provision?
- (b) in the event that you do not accept the suggestion in (a)—
 - (i) add the requirement of "he took all steps reasonably open to him to ensure that an offence would not be committed" to subsection (5)(a) (c.f. new section 16A(4))?

- (ii) show the relationship between new section 16A(5)(b) and new section 16A(4)(b)?

We also wish to raise one more question about clause 8(3). In light of existing section 33(1)(j) (power to impose charges) of the Waste Disposal Ordinance, why is it necessary to add new section 33(4)(ba)?

We should be grateful for your reply in both languages to reach us as soon as possible.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

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