

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

**List of follow-up actions arising from the discussion
at the meeting on 21 May 2004**

	Follow up actions	The Administration's responses
(1)	To ensure effective implementation of the Waste Disposal Charging Scheme and to avoid shifting of responsibility to sub-contractors, consideration should be given to 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.	<p>We have made reference to the minor works control regime proposed in the Buildings (Amendment) Bill 2003. The Buildings (Amendment) Bill 2003 proposes to introduce a new category of relatively simple and small-scale building works (i.e. minor works) and a new category of registered minor works contractors. Under the proposed minor works control regime, only registered minor works contractors are permitted to carry out minor works.</p> <p>At the meeting of the Bills Committee on the Buildings (Amendment) Bill 2003 on 23 April 2004, the Committee came to the view that the proposed minor works control regime should be taken out from the Bill. The Housing, Planning and Lands Bureau will further consult the industry on the issue. It will draw up a revised minor works control regime and introduce another amendment Bill into LegCo in the next LegCo session.</p> <p>The suggestion to require all renovation contractors to open billing accounts for the purpose of the proposed construction waste disposal charging scheme will</p>

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		<p>affect at least some 7 000 renovation contractors. Detailed discussion and full consultation with the trade on the suggestion will be necessary. However, we envisage difficulties in carrying out the consultation as there is no representative trade union for renovation contractors.</p> <p>We informed Members of the practical and enforcement difficulties in making it a mandatory requirement for renovation contractors to open billing accounts in LC Paper No CB(1)1882/03-04(01). Having re-considered the suggestion thoroughly, we maintain our view that the suggestion is neither practicable nor enforceable.</p> <p>Upon passage of the Bill and the relevant regulations, we will carry out publicity and education programmes to let all users of the construction waste disposal facilities, including renovation contractors, know of the need to open billing accounts with Government in order to use the facilities.</p> <p>Moreover, we will review the implementation of the charging scheme from time to time and consider making appropriate changes to the arrangements as necessary.</p>

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(2)	<p>To re-consider lowering the threshold for which penalty will 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 are 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.</p>	<p>As stated in LC Paper No CB(1)1882/03-04(01), under the current proposal, any principal contractor who undertakes a construction works contract valued \$1 million or above will be required to open a billing account and pay waste disposal charges to the Government direct. Failure to apply to the Director of Environmental Protection (DEP) for a billing account within 14 days after award of the contract will be an offence.</p> <p>We have re-considered the suggestion of lowering the threshold to \$0.5 million. We estimate that with the proposed threshold of \$1 million, the major contractors who generate about 80% of our construction waste will be required to open billing accounts. Should the threshold be lowered to \$0.5 million, the number of construction/renovation projects covered by the mandatory requirement will be increased significantly (in the order of 100 000), while the percentage of construction waste covered as a result of that will increase by only about 5%.</p> <p>As construction works contracts with a value in the range of \$0.5-1 million are usually of smaller scale, lowering the threshold will cause undue inconvenience to small businesses who would have to bear legal liability even for simple minor works.</p>

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		<p>We have also consulted the trade on the proposal to lower the threshold. Their preliminary feedback is that the proposed threshold of \$1 million is acceptable in terms of the scale of construction works to be involved. If we lower the threshold to \$0.5 million, which will be different from that for the Construction Industry Levy under the Industrial Training (Construction Industry) Ordinance and for the Pneumoconiosis Levy under the Pneumoconiosis (Compensation) Ordinance, the trade is concerned that this may cause confusion and require additional administrative resources to handle the different requirements.</p> <p>It is our policy intent to require any major contractor undertaking a construction works contract valued \$1 million or above to open a separate billing account for each individual project. We note Members' suggestion that a principal contractor undertaking a construction works project valued under \$1 million should not be required to open a separate billing account for each project but to inform DEP of the account to which disposal charges arising from additional projects should be charged. To serve the purpose of preventing these contractors from shifting their responsibility for opening billing accounts and paying charges to others, we would need to make it an offence for those who</p>

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		<p>fail to inform DEP when they carry out new works projects. This would cause undue inconvenience to and impose legal liability on the small contractors even for simple minor works.</p> <p>On balance, we maintain the view that the \$1 million threshold is appropriate.</p>
(3)	<p>To advise the basis of the 14-day period within which a principal contractor should open a billing account is arrived at. To also consult the trade whether the 14-day period is adequate and whether it should commence upon the awarding or signing of a contract.</p>	<p>The current proposal is to require the principal contractor who undertakes a construction works contract with a value of \$1 million or above to apply to DEP for a billing account within 14 days after being awarded the contract. Our intention is to ensure that the principal contractor will open a billing account for paying the charges before the commencement of construction work.</p> <p>As the signing of contract can take place any time at or after the award of contract, and even after commencement of the construction works, we consider it more appropriate to require the opening of the billing accounts after the award, rather than signing, of the contract. It is commonly accepted in the industry that the developer's written notification (e.g. letter of acceptance) is a means to establish the award of contract.</p> <p>Moreover, the proposal to require the principal contractor to open a billing account within 14 days after</p>

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		<p>being awarded the contract aims to ensure that the billing account will be available before the commencement of construction works. We have consulted the trade on the current proposal. The trade has raised no major difficulties in complying with the 14-day requirement.</p> <p>Nonetheless, in order to facilitate the major contractors in complying with the requirement, we agree to extend the period from 14 to 21 days. It should be noted that the period cannot be exceedingly long, as that will increase the likelihood of situations where the construction works have already commenced before the contractor has applied for a billing account.</p>
(4)	To step up education and publicity on the responsibility of renovation contractor to open billing accounts for disposal charges.	<p>Subject to the passage of the Bill and the relevant Regulations, we will launch education and publicity programmes to widely publicize the implementation of the construction waste disposal charging scheme.</p> <p>Apart from informing the trade and the public of the arrangements under the charging scheme, we will educate the waste producers, including the renovation contractors, that they should be responsible for opening billing accounts and paying disposal charges. In this regard, we plan to produce TV / radio APIs, leaflets and education packs, and organize briefings for different sectors of the</p>

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		trade (e.g. developers, construction contractors, waste haulers, etc.). Website and hotlines will also be set up.
(5)	To liaise with relevant bureaux/departments on the need to strengthen enforcement against falling objects from open topped vehicles.	We have relayed Members' request for strengthening enforcement against falling objects from open topped vehicles to the relevant departments, namely the Food and Environmental Hygiene Department, Transport Department and the Police.
(6)	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 enters into a contract with an owner or occupier of any land shall be regarded as a principal contractor, and that there can be more than one principal contractor for a project.	<p>The current proposed definition of "principal contractor" under the draft Waste Disposal (Charges for Waste Disposal) Regulation (i.e. a person who enters into a contract directly with an owner or occupier of any land, or with an agent or authorized architects, surveyor or engineer of such owner or occupier, to perform any construction work of such owner or occupier) aims to prevent the "principal contractor" from shifting the responsibility for opening billing accounts and paying disposal charges to subcontractors.</p> <p>In the light of Members' comments, we have reviewed the proposed definition of "principal contractor". Our view is that the proposed definition does not restrict the number of persons who can enter into a contract directly with an owner or occupier or his agent or authorized architect, surveyor or engineer in respect of a particular piece of land for the purpose of performing any construction works</p>

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		<p>for such owner or occupier. The obligation to open a billing account and pay charges through the billing account will apply to any person who falls within the description set out in the definition so long as the value of the construction works he undertakes is of \$1 million or above.</p> <p>Nonetheless, we note members' comment that the current label "principal contractor" (總承判商) might imply a single contractor. As it is our policy intent that any contractor who falls within the description set out in the definition must open a billing account if he undertakes any construction works of a value at \$1 million or above, and there may be more than one such contractors in respect of one project, we propose to adopt the term "main contractor" (主要承判商) instead.</p>

Environment, Transport and Works Bureau
May 2004