

ETWB(E) 55/03/113B pt.3  
ETWB(E) 55/03/113 pt.30  
CB1/BC/4/03

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9 June 2004

Miss Becky Yu  
Clerk to Bills Committee  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

Dear Miss Yu,

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

I refer to the Bills Committee meeting held on 7 June 2004, at which a Member asked whether the Government could invoke the power conferred by the Waste Disposal (Amendment) (No.2) Bill (if passed) to remove waste deposited before the commencement of the Amendment Ordinance. Our response is set out below –

Under the proposed section 23EA, the Director of Environmental Protection may enter any place to remove the waste deposited in the place so long as all the criteria set out in section 23EA (1)(a), (b) and (c) are satisfied. The Director may invoke that power on or after the commencement of the Amendment Ordinance, if made, even if the waste might have been deposited before the commencement of the Amendment Ordinance. Since section 23EA contemplates a situation with on-going facts, we consider that the section will have immediate application after the commencement of the Amendment Ordinance to a subsisting state of affairs, even though that state of affairs might have come into existence before the commencement of the Amendment Ordinance. With regard to government land, the relevant government authorities can always take action to remove waste deposited on government land.

Yours sincerely,

(Mrs Teresa Wong)  
for Secretary for the Environment, Transport and Works