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Environmental Protection Department  
Waste Management Policy Division  
Waste Policy Group  
Waste Policy Section (2)  
(Attn: Mr David HA,  
Sr Env Protection Offr (Waste Policy)2  
45/F, Revenue Tower  
5 Gloucester Road  
Wan Chai, Hong Kong

By Fax (2318 1877) and By Post

25 July 2005

Dear Mr HA

**Waste Disposal (Amendment) Bill 2005 (“the Bill”)**

I refer to the Administration’s paper on “Waste Disposal (Amendment) Bill 2005 - Clinical Waste Control Scheme” (“the Paper”) and have the following comments:

**Duties of and sanctions imposed on various parties in the Clinical Waste Management Chain**

Waste Producer

Paragraph 2 of the Paper provided that clinical waste producers would be required to arrange for disposal of their clinical waste at a licensed disposal facility failing which the proposed sanction would be a fine of \$200,000. The clinical waste producers would be deemed to have discharged their duty if they had consigned their waste to a licensed clinical waste collector. Please clarify the statutory provisions setting out such duty and sanction.

Section 16A(1) of the Waste Disposal Ordinance (Cap. 354) (“the Ordinance”) provides that any person who without lawful authority or excuse deposits or causes or permits to be deposited any waste-

- (a) in a public place;

- (b) on any Government land; or
- (c) on any land other than Government land without the consent of the owner or occupier,

commits an offence.

Section 18(1) of the Ordinance stipulates, inter alia, that any person who commits an offence under section 16A is liable-

- (a) for the first offence, to a fine of \$200,000 and to imprisonment for 6 months;
- (b) for a second or subsequent offence, to a fine of \$500,000 and to imprisonment for 6 months; and
- (c) in addition, if the offence is a continuing offence to a fine of \$10,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

It appears that a clinical waste producer who leaves or, whose licensed waste collector leaves, any clinical waste in a public place, on any Government land or on any land other than Government land without the consent of the owner or occupier of the land will be in breach of section 16A and is subject to the penalties set out in section 18A. What are the differences between the offence under section 16A, the offence of failure of a clinical waste producer to arrange for proper disposal of clinical waste and the offence of a healthcare professional who fails to comply with requirements in relation to the delivery of clinical waste? Does the consignment of clinical waste by a clinical waste producer to a licensed clinical waste collector amount to a lawful excuse under section 16A?

### Waste Collector

The Bill proposes to add a new section 11(2) which provides, inter alia, that a person who provides services for the collection or removal of clinical waste, other than-

- (a) the holder of a licence under section 10(5) for provision of the services; or
- (b) a person authorized to provide the services pursuant to any regulation made under section 33(1)(ca),

commits an offence and is liable to a fine at level 6.

Please clarify the difference between “collection” and “removal” of

clinical waste.

The Paper mentioned that a licensed collector who failed to deliver clinical waste to a licensed disposal facility within 24 hours or as specified by the Authority would be subject to a fine of \$100,000 and 6-month imprisonment. Please clarify the statutory provisions setting out such duty and sanction.

Paragraph 3 of the Paper stated that “To facilitate small clinical waste producers (e.g. private clinics) who prefer to carry small quantities of clinical waste to the licensed disposal facility, healthcare professionals will be allowed to transport not more than 5 kg of clinical waste to a licensed disposal facility.”. Annex II of the Paper set out that the sanction imposed on healthcare professional who did not comply with requirements in relation to the delivery of clinical waste.

Please clarify:

- (a) whether this arrangement only applies to healthcare professionals? Can other small clinical waste producers e.g. laboratories also transport small quantities of clinical waste to licensed disposal facility?
- (b) whether the small clinical waste producers/healthcare professionals are required to apply for a licence for collection or removal of clinical waste?
- (c) are there any restrictions on the small quantities of clinical waste carried by the small clinical waste producers/healthcare professionals e.g. restricted to the waste generated by them?

It is appreciated that your reply in both Chinese and English could reach us by close of play, 25 July 2005.

Yours sincerely

(Monna LAI)  
Assistant Legal Adviser

c.c. DoJ (Attn: Ms. Fanny IP, SALD)  
DoJ (Attn: Ms Frances HUI, SGC)