

LS/B/27/04-05
2869 9370
2877 5029

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

10 November 2005

Dear Mr HA

Waste Disposal (Amendment) Bill 2005

I refer to your letter dated 19 October 2005.

In reply to my query raised in my letter dated 28 September 2005 on the liability of a clinical waste producer under section 16A of the Waste Disposal Ordinance (Cap. 354) (“the Ordinance”) if he has consigned the clinical waste as provided under section 3(2) of the Waste Disposal (Clinical Waste) (General) Regulation, you replied in your letter that:

“In the absence of the requisite mens rea for an offence under section 16A of the Ordinance, the consignor is not liable under the said section of the Ordinance simply because he consigns the waste to the consignee (who subsequently commits an offence).”

Section 31 of the Ordinance provides that in any proceedings for an offence under section 16A **it shall not be necessary for the prosecution to prove** that the acts or omissions in question were **accompanied by any intention, knowledge or negligence on the part of the defendant** as to any element of the offence.

Please clarify your reply in the light of this section. What are the elements of the offence to be proved by the prosecution under section 16A in such situation? Can consignment of the clinical waste amounts to a lawful excuse under section 16A?

It is appreciated that your reply in both Chinese and English could reach us by close of play, 17 November 2005.

Yours sincerely

(Monna LAI)
Assistant Legal Adviser