

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

**List of concerns arising from the discussion
at the meeting on 27 May 2004**

The Administration is requested to take into account the following views expressed by members in finalizing the proposed Waste Disposal (Charges for Waste Disposal) Regulation -

- (a) to review whether the term “principal contractor” tallies with its definition in section 2 and the propriety of using “primary contractor” as a substitute;
- (b) to ensure that the drafting of section 3(2) is consistent with the relevant provisions in the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 in the light of the possibility of compromising the policy intent of not allowing indiscriminate dumping at landfills;
- (c) to review the proposed daily fine under section 11(6) which seems to be on the high side. Reference should be made to similar provisions in other legislation to ascertain the propriety of the daily fine;
- (d) to review the power of the Director of Environmental Protection (DEP) to impose conditions for granting billing accounts under section 12(2) which is too wide. Consideration should be given to making it clear that there are general conditions under which a billing account will be granted, and that only under exceptional circumstances (to be specified) should DEP impose other conditions on the granting of billing accounts;
- (e) to review whether the reference to “particulars” in section 12(6) is appropriate. Reference to “information” and “supporting materials” are made in sections 11(3) and 12(4)(a). The Administration should also consider whether the “particulars” are to be specified;
- (f) to provide a defence of reasonable excuse under section 12(7) since the Administration has explained that even though such a defence was not expressly provided, a reasonable excuse raised by a defendant might still be recognized by the court. The penalty for contravention at level 5 is also too heavy;
- (g) to consult the trade on the charging arrangement for disposal of inert construction waste carried by vessels at public fill reception facilities under section 13(3) and Schedule 3;

- (h) to review the wording “from time to time” in section 14(1) and consider the propriety of using “monthly” or “periodically” as a substitute;
- (i) to express in section 15(7) the policy intent of allowing DEP to impose other conditions for granting a new billing account to the account-holder of a revoked billing account;
- (j) to narrow the scope of “The exemption may apply to, but is not limited to” in section 16(1);
- (k) to review the scope of section 20(b) taking into account that waste haulers may inadvertently certify matters, such as waste content, which they may not have knowledge of.

Council Business Division 1
Legislative Council Secretariat
2 June 2004