

立法會
Legislative Council

LC Paper No. CB(1)876/13-14
(These minutes have been seen
by the Administration)

Ref: CB1/BC/11/12

Bills Committee on Waste Disposal (Amendment) Bill 2013

**Minutes of the second meeting held on
Tuesday, 15 October 2013, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon Cyd HO Sau-lan (Chairman)
Hon LEE Cheuk-yan
Hon WU Chi-wai, MH
Hon Charles Peter MOK
Dr Hon Kenneth CHAN Ka-lok
Hon KWOK Wai-keung

Members absent : Hon CHAN Hak-kan, JP
Hon CHAN Han-pan
Hon CHUNG Kwok-pan

Public officers attending : **Agenda item I**

Mr Albert LAM Kai-chung, JP
Deputy Director of Environmental Protection (2)
Environmental Protection Department

Mr David WONG Tak-wai
Assistant Director of Environmental Protection
(Environmental Compliance)
Environmental Protection Department

Action

Mr Samson LAI Yiu-kei
Assistant Director of Environmental Protection
(Waste Management Policy)
Environmental Protection Department

Mr Peter SZE Chun-fai
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (1)2

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Miss Katherine CHAN
Council Secretary (1)2

Action

I Meeting with the Administration

- (LC Paper No. CB(1)19/13-14(01) - List of follow-up actions arising from the meeting on 12 July 2013
- LC Paper No. CB(1)1853/12-13(01) - Administration's response to the concerns raised by members at the meeting on 12 July 2013 and the matters raised by Assistant Legal Adviser in the letter dated 8 July 2013
- LC Paper No. CB(3)706/12-13
File Ref: EP CR 9/150/37 Pt.10 - The Bill
- The Legislative Council Brief issued by the Environment Bureau and Environmental Protection Department
- LC Paper No. LS66/12-13 - Legal Service Division Report on the Bill
- LC Paper No. CB(1)1505/12-13(01) - Paper on Waste Disposal (Amendment) Bill 2013 prepared by the Legislative Council Secretariat (background

Action

- brief)
- LC Paper No. CB(1)1505/12-13(02) - Marked-up copy of the Bill prepared by the Legal Service Division
- LC Paper No. CB(1)1505/12-13(03) - Letter dated 8 July 2013 from Assistant Legal Adviser to the Administration)

The Administration briefed members on its response to the concerns raised by members at the meeting on 12 July 2013 and the matters raised by Assistant Legal Adviser in the letter dated 8 July 2013. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Follow-up actions required of the Administration

- Admin 2. To facilitate further discussion on the Bill, the Administration was required to provide the following information –

Part One: Further question on follow-ups of the first meeting

- Information on the enforcement of the Town Planning Ordinance (Cap. 131) in combating fly-tipping activities by the Planning Department, including the number of prosecutions taken against fly-tippers in recent years.

Part Two: Further questions on issues raised by Assistant Legal Adviser

- Whether proposed new section 16B would apply to the circumstances that an abandoned site was fly-tipped by persons carrying out works in a construction site nearby.
- Justifications for the Administration's definition of "private lot".
- Whether definitions of a "building", "house" or "structure" that was built on a private lot were required, in particular for those which were partially collapsed.
- An explanation of the elements that the prosecution would consider when deciding to charge a person under the existing section 16A(1) or proposed new section 16B(3) of the Waste Disposal Ordinance (Cap. 354) ("WDO") who had done a single act, and to provide an illustration.

Action

- In view of the requirement that a person who deposited construction waste had to display in a conspicuous place on the lot a copy of the acknowledged form for the depositing activity, whether a definition of "conspicuous place" was required, particularly in respect of a rural open ground.

Others

- Procedures for enforcing WDO against fly-tipping activities in real situation (including the roles of the front-line staff of the Environmental Protection Department and Police Force) and an explanation of other relevant ordinances that empowered public officers to stop persons from obstructing them to carry out duties against fly-tipping activities.

Date of next meeting

3. Members agreed to hold the next meeting on 29 October 2013 to meet with deputations and the Administration.

II Any other business

4. There being no other business, the meeting ended at 12:06 pm.

Council Business Division 1
Legislative Council Secretariat
10 February 2014

**Proceedings of the second meeting of
the Bills Committee on Waste Disposal (Amendment) Bill 2013
on Tuesday, 15 October 2013, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with the Administration			
000537 – 000743	Chairman Mr LEE Cheuk-yan Dr Kenneth CHAN	- Date of next meeting.	
000744 – 000848	Chairman	- Briefing by the Administration on its response to the concerns raised by members at the meeting on 12 July 2013 and the matters raised by Assistant Legal Adviser ("ALA") in the letter dated 8 July 2013 on a question-by-question basis [LC Paper No. CB(1)1853/12-13(01)].	
000849 – 001735	Chairman Mr LEE Cheuk-yan Administration	<p><u>Part One: Follow-ups of the first meeting</u></p> <ul style="list-style-type: none"> - Briefing by the Administration on the list of other legislation that was relevant to fly-tipping of waste, apart from the Waste Disposal Ordinance (Cap. 354) ("WDO"). - In response to the Chairman, the Administration explained that the legislation listed was mainly cited from discussions at the meetings of the Subcommittee on Combating Fly-tipping under the Panel on Environmental Affairs in the Fourth Legislative Council. The Administration highlighted that it was not feasible to provide an exhaustive list of legislation that might contain provisions that regulated various aspects relating to the depositing of construction waste on a private lot and those listed were major ones. - Mr LEE Cheuk-yan requested and the Administration agreed to provide supplementary information on the enforcement of the Town Planning Ordinance (Cap. 131) in combating fly-tipping activities by the Planning Department, including the number of prosecutions taken against fly-tippers in recent years. 	Administration to provide information /response (paragraph 2 of minutes)
001736 – 001930	Chairman Administration	- Briefing by the Administration on whether to impose restriction on the height of the waste deposited on the lot or on the depth of the	

Time marker	Speaker	Subject(s)	Action required
		<p>permitted area of 20 square metres ("m²") below ground level.</p> <ul style="list-style-type: none"> - The Chairman remarked that the Administration should re-consider members' views and concerns on the permitted area of 20 m². 	
001931 – 002457	Chairman Administration	<ul style="list-style-type: none"> - Briefing by the Administration on the owner's responsibility to reinstate the lot used as depositing area. - The Chairman quoted the former Cheoy Lee Shipyard as an example to illustrate her concerns about the deposited construction waste containing chemical waste. The Administration advised that chemical waste would be handled in accordance with the Administration's established procedures. 	
002458 – 002718	Chairman Administration	<p><u>Part Two: Issues raised by ALA</u></p> <ul style="list-style-type: none"> - Briefing by the Administration on the intended commencement date of the Bill. - The Chairman pointed out that at a recent House Committee meeting, it was discovered that some of the Ordinances enacted were not yet in operation. In this connection, the Chairman urged the Administration to enforce the new provision of the Bill, if passed, at an appropriate time. 	
002719 – 003515	Chairman Mr WU Chi-wai Administration	<ul style="list-style-type: none"> - Briefing by the Administration on the definition of "private lot" and proposed new section 16B(1)(a). - Discussion on the application of section 16A of WDO and proposed new section 16B of WDO and the elements contained therein. 	
003516 – 005007	Chairman Mr WU Chi-wai Mr LEE Cheuk-yan ALA Administration	<ul style="list-style-type: none"> - Briefing by the Administration on circumstances that dumping of construction waste on a piece or parcel of ground with a house, building or other structure. - To address Mr WU Chi-wai's concern, the Chairman requested and the Administration agreed to provide information on whether proposed new section 16B would apply to the circumstances that an abandoned site was 	Administration to provide information /response (paragraph 2 of

Time marker	Speaker	Subject(s)	Action required
		<p>fly-tipped by persons carrying out works in a construction site nearby.</p> <ul style="list-style-type: none"> - ALA requested the Administration to provide written explanation in relation to the meaning of "a piece or parcel of ground" under proposed definition of "private lot" as clarified by Senior Government Counsel. - In order to address Mr LEE Cheuk-yan's concerns, the Chairman asked the Administration to provide written reply on whether definitions of a "building", "house" or "structure" that was built on a private lot were required, in particular for those which were partially collapsed. 	<p>minutes)</p> <p>Administration to provide information /response (paragraph 2 of minutes)</p> <p>Administration to provide information /response (paragraph 2 of minutes)</p>
005008 – 005036	Chairman Administration	<ul style="list-style-type: none"> - Briefing by the Administration on how the boundary of a private lot be determined for the purpose of assessing the total area on which construction waste had been deposited within the lot under proposed new section 16B(1)(a) of WDO. 	
005037 – 005123	Chairman Administration	<ul style="list-style-type: none"> - Briefing by the Administration on circumstances that construction waste had been deposited inside any structure built on the lot, the total area of such waste would not be counted under proposed new section 16B(1)(a) of WDO. 	
005124 – 005314	Chairman Mr LEE Cheuk-yan Administration	<ul style="list-style-type: none"> - Briefing by the Administration on proper permission of landowner(s) required for depositing of construction waste on a private lot. - Discussion on depositing construction waste on private land held under "Tso Tong" in the New Territories. 	
005315 – 005823	Chairman ALA Administration	<ul style="list-style-type: none"> - Briefing by the Administration on whether a person would be charged under proposed new section 16B(3) or section 16A(1) of WDO by doing a single act. - Upon the Chairman's request, the Administration would further provide supplementary information in writing on the above issue. 	<p>Administration to provide information /response (paragraph 2 of minutes)</p>

Time marker	Speaker	Subject(s)	Action required
005824 – 010136	Chairman Administration	<ul style="list-style-type: none"> - Briefing by the Administration on the policy reason for imposing the duty to display the acknowledged form upon the depositor who deposited construction waste on a private lot, rather than the one who caused to be deposited such waste. - The Administration explained that the duty to display the required part of the acknowledged form by the person who deposited construction waste was that it would be sufficient to ask the depositor to do so. In this respect, the Chairman requested the Administration to provide information on whether a definition of "conspicuous place" was required, particularly in respect of a rural open ground. 	Administration to provide information /response (paragraph 2 of minutes)
010137 – 010439	Chairman ALA Administration	<ul style="list-style-type: none"> - Discussion on the Committee Stage amendment to be made to clause 8 of the Bill in view of the Administration's policy that the offence under proposed new section 16C(7) of WDO was a strict liability offence. 	
010440 – 010546	Chairman Administration	<ul style="list-style-type: none"> - Briefing by the Administration on the reasons for setting a fine at level 6 for the offences under proposed new section 16C(6) and (7) of WDO. 	
010547 – 010648	Chairman Administration	<ul style="list-style-type: none"> - Briefing by the Administration on the reasons for not including daily default fine in the case of a continuing offence as the penalty for the offence under proposed new section 16C(7) of WDO. 	
010649 – 012226	Chairman Mr LEE Cheuk-yan Administration	<ul style="list-style-type: none"> - Discussion on the enforcement of the Bill, if passed. - In response to Mr LEE Cheuk-yan's views, the Chairman requested the Administration to provide supplementary information on the procedures for enforcing WDO against fly-tipping activities in real situation. - Mr LEE Cheuk-yan requested and the Administration agreed to provide a written explanation of the ordinances that empowered public officers to stop persons from obstructing them to carry out duties against fly-tipping 	<p>Administration to provide information /response (paragraph 2 of minutes)</p> <p>Administration to provide information /response (paragraph 2 of minutes)</p>

Time marker	Speaker	Subject(s)	Action required
		activities.	

Council Business Division 1
Legislative Council Secretariat
10 February 2014