

**立法會**  
**Legislative Council**

LC Paper No. CB(1)972/13-14  
(These minutes have been seen  
by the Administration)

Ref: CB1/BC/11/12

**Bills Committee on Waste Disposal (Amendment) Bill 2013**

**Minutes of the fourth meeting held on  
Tuesday, 12 November 2013, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon Cyd HO Sau-lan (Chairman)  
Hon CHAN Hak-kan, JP  
Hon WU Chi-wai, MH  
Hon Charles Peter MOK  
Hon CHAN Han-pan  
Dr Hon Kenneth CHAN Ka-lok  
Hon CHUNG Kwok-pan

**Members absent** : Hon LEE Cheuk-yan  
Hon KWOK Wai-keung

**Public officers attending** : **Agenda item I**  
  
Mr Andrew LAI Chi-wah, JP  
Deputy Director of Environmental Protection (3)  
Environmental Protection Department  
  
Mr Samson LAI Yiu-kei  
Assistant Director of Environmental Protection  
(Waste Management Policy)  
Environmental Protection Department

Action

Mr Simon HUI Yat-ming  
Principal Environmental Protection Officer  
(Regional North)  
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

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Action

**I Meeting with the Administration**

- (LC Paper No. CB(1)267/13-14(01) - List of follow-up actions arising from the meeting on 29 October 2013
- LC Paper No. CB(1)285/13-14(02) - Administration's response to the concerns raised by members at the meetings on 15 and 29 October 2013
- LC Paper No. CB(1)148/13-14(01) - List of follow-up actions arising from the meeting on 15 October 2013
- 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

Action

- LC Paper No. CB(1)1505/12-13(03) - Letter dated 8 July 2013 from Assistant Legal Adviser to the Administration
- LC Paper No. CB(3)706/12-13 - The Bill
- LC Paper No. CB(1)1505/12-13(02) - Marked-up copy of the Bill prepared by the Legal Service Division)

At the invitation of the Chairman, the Administration briefed members on the paper which set out its response to the concerns raised by members at the meetings on 15 and 29 October 2013. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Clause-by-clause examination of the Waste Disposal (Amendment) Bill 2013 ("the Bill")

2. The Bills Committee completed clause-by-clause examination of the Bill.

Follow-up actions required of the Administration

- Admin 3. In response to the Assistant Legal Adviser's suggestion, the Administration advised that it would propose Committee Stage amendments ("CSAs") to include the offence under the proposed new section 16C(7) in respect of the display of acknowledged form in section 31 of the Waste Disposal Ordinance (Cap. 354) for the sake of clarity.

Way forward and legislative timetable

- Clerk 4. The Bills Committee agreed that the Administration's proposal set out in paragraph 3 above should be circulated to members for their consideration of whether a further meeting should be held to discuss the issues therein. If no further views were raised by members, the Bills Committee was deemed to have completed the scrutiny of the Bill. Subject to no further views or issues from members, the Bills Committee would report its deliberations to the House Committee on 6 December 2013 so that the Second Reading debate on the Bill could be resumed at the Council meeting of 18 December 2013.

*(Post-meeting note: The Administration's draft CSAs were issued to members vide LC Paper No. CB(1)378/13-14 on 21 November 2013.)*

Action

**II Any other business**

5. There being no other business, the meeting ended at 11:59 am.

Council Business Division 1  
Legislative Council Secretariat  
25 February 2014

**Proceedings of the fourth meeting of  
the Bills Committee on Waste Disposal (Amendment) Bill 2013  
on Tuesday, 12 November 2013, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Meeting with the Administration</b>			
000241 - 000417	Chairman Administration	- Briefing by the Administration on its response to the concerns raised by members at the meetings on 15 and 29 October 2013 on a question-by-question basis [LC Paper No. CB(1)285/13-14(02)].	
000418 – 000549	Chairman Administration	<u><b>A. Follow-ups from the second meeting</b></u>  - Briefing by the Administration on the enforcement of the Town Planning Ordinance (Cap. 131) ("TPO") in respect of combating fly-tipping activities by the Planning Department.	
000550 – 001231	Chairman Mr CHAN Han-pan Administration	- Discussion on the Administration's difficulties encountered in enforcing TPO and section 16A of the Waste Disposal Ordinance (Cap. 354) ("WDO") against unauthorized land filling activities, which resulted in low success rate of prosecution.	
001232 – 002357	Chairman Mr CHAN Hak-kan Administration	- Discussion on the problem of fly-tipping of construction waste in rural and urban areas.  - Mr CHAN Han-kan suggested that the Waste Disposal (Amendment) Bill 2013 ("the Bill") should not only focus on tackling illegal dumping of construction waste in rural areas, but also address the relevant problem occurred in urban areas.  - The Administration explained that they had monitored fly-tipping activities in both rural and urban areas and advised that the nature and size of the fly-tipped areas involved were different and so did the penalties imposed.	
002358 – 003104	Chairman Mr WU Chi-wai Administration	- Discussion on the application of section 16A of WDO, the proposed new section 16B of WDO and the Summary Offences Ordinance (Cap. 228) in combating fly-tipping of construction waste.	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> <li>- Discussion on how the evidence (such as photos and videos) provided by the public might facilitate the prosecution against illegal dumping.</li> </ul>	
003105 – 003230	Chairman Administration	<ul style="list-style-type: none"> <li>- Briefing by the Administration on whether the 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.</li> </ul>	
003231 – 003443	Chairman Assistant Legal Adviser ("ALA") Administration	<ul style="list-style-type: none"> <li>- Briefing by the Administration on the meanings of "building", "house" and "structure" that were built on a private lot, in particular for those which were partially collapsed.</li> <li>- In response to ALA's enquiry, the Administration clarified that although "structure" appeared in a few provisions in WDO, it had not been specifically defined in WDO.</li> </ul>	
003444 – 003527	Chairman Administration	<ul style="list-style-type: none"> <li>- Briefing by the Administration on the justifications for its definition of "private lot".</li> </ul>	
003528 – 003622	Chairman Administration	<ul style="list-style-type: none"> <li>- Briefing by the Administration on the elements that the prosecution would consider when deciding to charge a person under section 16A(1) or the proposed new section 16B(3) of WDO who had done a single act.</li> </ul>	
003623 – 003729	Chairman Administration	<ul style="list-style-type: none"> <li>- Briefing by the Administration on whether a definition of "conspicuous place" was required under the proposed new section 16C(4) of WDO.</li> </ul>	
003730 – 004309	Chairman Administration	<ul style="list-style-type: none"> <li>- Briefing by the Administration on the procedures for enforcing WDO against fly-tipping activities in practice and other relevant ordinances which empowered the public officers to stop persons from obstructing them to carry out duties against fly-tipping activities.</li> <li>- Discussion on the enforcement and effectiveness of the proposed new section 16B of WDO.</li> </ul>	

Time marker	Speaker	Subject(s)	Action required
004310 – 004816	Chairman Administration	<p><b><u>B. Follow-ups from the third meeting</u></b></p> <ul style="list-style-type: none"> <li>- Briefing by the Administration on the circumstances under which the Department of Justice would apply for a review of the sentence handed down by the court, the number of prosecution cases against persons who caused or permitted to be deposited construction waste without lawful authority on a piece of land in the past, and the maximum penalties imposed by the court for unauthorized dumping vis-à-vis the maximum penalties specified in WDO in the past.</li> <li>- In response to the Chairman's enquiry, the Administration clarified that a person would have committed an offence under section 16A of WDO if the person deposited construction waste in any place without the lawful authority or excuse, or the permission of the owner or lawful occupier, regardless of the dimensions of the fly-tipped area.</li> </ul>	
<b><i>Clause-by-clause examination of the Bill</i></b>			
004817 – 005010	Chairman Administration	<p><u>Clause 1</u></p> <ul style="list-style-type: none"> <li>- In response to the Chairman's enquiry, the Administration advised that: <ul style="list-style-type: none"> <li>(a) before the commencement of the Bill, if passed, a lead time of about 3 months would be required for the Administration to inform the relevant stakeholders, including the dump truck trade, the construction trade as well as the Heung Yee Kuk, of the content of the Bill; and</li> <li>(b) subsidiary legislation would be made in due course for appointing the commencement date of the Bill, if passed.</li> </ul> </li> </ul>	
005011 – 005043	Chairman Administration	<p><u>Clauses 2 and 3</u></p> <ul style="list-style-type: none"> <li>- Extent of the amendment and interpretation noted.</li> </ul>	
005044 – 005848	Chairman Administration	<p><u>Clause 4</u></p> <ul style="list-style-type: none"> <li>- Discussion on the provisions and enforcement of the proposed new section 16B in respect of a</li> </ul>	

Time marker	Speaker	Subject(s)	Action required
		<p>private lot owned by a sole owner.</p> <ul style="list-style-type: none"> <li>- The Chairman remarked that the Administration should provide a sample of the specified form to the Legislative Council when putting up the commencement notice so that members of the public could understand easily.</li> </ul>	
005849 – 010836	Chairman Dr Kenneth CHAN Administration	<p><u>Clause 5</u></p> <ul style="list-style-type: none"> <li>- Discussion on section 18 of WDO as proposed to be amended by the Bill which provided that a person would not commit an offence under section 16, 16A or 17 or the proposed new section 16B if the person could prove that the waste was disposed of in an emergency to avoid danger to the public and as soon as was reasonably practicable the person informed the Director of Environmental Protection thereof in writing.</li> <li>- The Chairman and Dr Kenneth CHAN remarked that the Administration should clearly explain the circumstances for "emergency" and "to avoid danger to the public" as stipulated in section 18(2) of WDO to prevent possible abuse of the exclusion.</li> </ul>	
010837 – 010911	Chairman Administration	<p><u>Clause 6</u></p> <ul style="list-style-type: none"> <li>- Discussion on the empowerment of an authorized officer to require any person suspected to have deposited construction waste to produce an acknowledged form.</li> </ul>	
010912 – 010946	Chairman Administration	<p><u>Clause 7</u></p> <ul style="list-style-type: none"> <li>- Consequential amendment to section 23EA of WDO noted.</li> </ul>	
010947 – 011102	Chairman Administration	<p><u>Clause 8</u></p> <ul style="list-style-type: none"> <li>- The Administration advised that in response to ALA's suggestion, it would propose Committee Stage amendments to include the offence under the proposed new section 16C(7) in respect of the display of acknowledged form in section 31 of WDO for the sake of clarity.</li> </ul>	



<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
011103 – 011154	Chairman Administration	<u>Clauses 9 and 10</u>  - Purposes of the above noted.	
011155 – 011450	Chairman ALA	- ALA expressed her observation that the Chinese and English texts of section 23F(c) of WDO might be inconsistent with each other and the Administration might consider making amendments in due course as appropriate. The Administration explained the case to ALA.  - Discussion on the way forward and the legislative timetable.	

Council Business Division 1  
Legislative Council Secretariat  
25 February 2014