## 立法會 Legislative Council

LC Paper No. CB(1)870/18-19 (These minutes have been seen by the Administration)

Ref: CB1/BC/2/18/2

# Bills Committee on Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018

## Minutes of third meeting held on Monday, 18 February 2019, at 10:45 am in Conference Room 2 of the Legislative Council Complex

**Members present**: Hon MA Fung-kwok, SBS, JP (Chairman)

Hon Tommy CHEUNG Yu-yan, GBS, JP

Hon CHAN Hak-kan, BBS, JP

Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Hon Paul TSE Wai-chun, JP

Hon Frankie YICK Chi-ming, SBS, JP

Hon YIU Si-wing, BBS

Hon Charles Peter MOK, JP

Hon Kenneth LEUNG

Hon KWOK Wai-keung, JP

Dr Hon Fernando CHEUNG Chiu-hung

Hon IP Kin-yuen

Dr Hon Elizabeth QUAT, BBS, JP Hon POON Siu-ping, BBS, MH

Ir Dr Hon LO Wai-kwok, SBS, MH, JP

Hon CHUNG Kwok-pan

Hon CHU Hoi-dick

Hon SHIU Ka-fai

Hon Wilson OR Chong-shing, MH

Hon CHAN Chun-ying, JP

Hon Tanya CHAN

Hon HUI Chi-fung

Hon Kenneth LAU Ip-keung, BBS, MH, JP

Dr Hon CHENG Chung-tai

Hon Jeremy TAM Man-ho

Hon Gary FAN Kwok-wai

Hon AU Nok-hin

Hon Vincent CHENG Wing-shun, MH

## Hon Tony TSE Wai-chuen, BBS

**Members absent**: Hon Steven HO Chun-yin, BBS (Deputy Chairman)

Hon WU Chi-wai, MH

Dr Hon Junius HO Kwan-yiu, JP

**Public Officers** attending

: For item II

Mr WONG Kam-sing, GBS, JP Secretary for the Environment

Mr Donald NG, JP

Deputy Director of Environmental Protection (Special

Duties)

**Environmental Protection Department** 

Mrs Vicki KWOK, JP

Deputy Director of Environmental Protection (2)

**Environmental Protection Department** 

Mr Kenneth CHAN

Assistant Director (Charging Preparation)

**Environmental Protection Department** 

Mr Ken WONG

Assistant Director (Environmental Compliance)

**Environmental Protection Department** 

Mr Lawrence CHEUNG

Principal Environmental Protection Officer

(Community Relations)

**Environmental Protection Department** 

Mr Gilbert MO

Deputy Law Draftsman

Department of Justice

Mr FORK Ping-lam

Assistant Director (Operations)3

Food and Environmental Hygiene Department

**Clerk in Attendance :** Ms Angel SHEK

Chief Council Secretary (1)1

**Staff in attendance**: Mr Cliff IP

Assistant Legal Adviser 8

Mr Jason KONG

Senior Council Secretary (1)1

#### Action

### I. Confirmation of minutes

(LC Paper No. CB(1)530/18-19 — Minutes of the meeting held on 5 December 2018)

The minutes of the meeting held on 5 December 2018 were confirmed.

## II. Meeting with the Administration

Matters arising from previous meeting

(LC Paper No. CB(1)396/18-19(02) — List of follow-up actions arising from the meeting on 5 December 2018

LC Paper No. CB(1)396/18-19(03) — Administration's response to items (a), (b), (d), (e), (f), (g), (j) and (k) of the list of follow-up actions arising from the meeting on 5 December 2018

LC Paper No. CB(1)563/18-19(01) — Administration's response to items (c), (h) and (i) of the list of follow-up actions arising from the meeting on 5 December 2018

LC Paper No. CB(1)563/18-19(02) — List of follow-up actions arising from the meeting on 7 January 2019

LC Paper No. CB(1)205/18-19(02) — Assistant Legal Adviser's letter dated 4 December 2018 to the Administration

Action

LC Paper No. CB(1)396/18-19(01) — Administration's reply to Assistant Legal Adviser's letter dated 4 December 2018)

Relevant papers

(LC Paper No. CB(3)97/18-19 — Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 ("the Bill")

File Ref: EP CR/9/65/3 — Legislative Council Brief

LC Paper No. LS13/18-19 — Legal Service Division Report

LC Paper No. CB(1)205/18-19(01) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to Members)

LC Paper No. CB(1)205/18-19(03) — Background brief prepared by the Legislative Council Secretariat)

#### Discussion

2. <u>The Bills Committee</u> deliberated (index of proceedings attached at the **Annex**).

(At 12:28 pm, the Chairman directed that the meeting be extended for five minutes beyond the appointed ending time.)

## Follow-up actions to be taken by the Administration

## Admin 3. The Administration was requested to provide the following information:

(a) the steps that the property management company of a building and the cleaning staff it employed would generally be expected to take when handling non-compliant waste deposited in the building by a waste producer, in order to avoid the commission of an offence under the proposed section 20M(1) of the Waste Disposal Ordinance (Cap. 354) or to establish a defence under the proposed section 20Q of Cap. 354 (if the Bill was passed);

- (b) whether the recyclables collected locally by recyclers and subsequently disposed of at landfills would be subject to the proposed municipal solid waste charging scheme (if the Bill was passed);
- (c) measures to prevent and detect counterfeiting of designated bags ("DBs") and designated labels ("DLs"); and penalties (if any) for the manufacturing, distribution, sale and use of counterfeit DBs/DLs;
- (d) the respective numbers of people currently employed by the following parties for the collection of recyclables: (i) the Environmental Protection Department ("EPD"); (ii) Community Green Stations; (iii) operators of collection outlets in the Community Recycling Network, including Community Recycling Centres, collection points run by non-governmental organizations, and Community Recycling Vehicles; and (iv) the Government's contractors for recyclables collection services;
- (e) whether the Environment Bureau/EPD had set up a dedicated team for carrying out duties relating to the operation and management of the recycling chain of each type of major recyclables (such as paper, plastics and metals); and if yes, the respective numbers of staff in such dedicated team; and
- (f) the estimated amount of domestic food waste to be treated by Organic Resources Recovery Centre Phases 2 and 3 after the facilities had become fully operational, and the proportion of such domestic food waste to all domestic food waste generated in Hong Kong.

(*Post-meeting note*: The Administration's written response to items (a), (b), (c) and (f) was circulated to members on 20 March 2019 vide LC Paper No. CB(1)737/18-19(04).)

### III. Any other business

#### Date of next meeting

4. <u>The Chairman</u> advised that the next meeting would be held on Tuesday, 26 March 2019 at 10:45 am.

#### **Action**

5. There being no other business, the meeting ended at 12:48 pm.

Council Business Division 1 <u>Legislative Council Secretariat</u> 9 April 2019

## Bills Committee on Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018

## Proceedings of the third meeting on Monday, 18 February 2019, at 10:45 am in Conference Room 2 of the Legislative Council Complex

Time marker	Speaker	Subject	Action required
Agenda Item I — Confirmation of minutes			
000858 – 000958	Chairman	Confirmation of the minutes of the meeting held on 5 December 2018.	
Agenda Ite	em II — Meeting wit	h the Administration	
000959 – 002713	Chairman Administration	The Administration showed a video clip to members, which provided brief information on several aspects of the proposed charging scheme for the disposal of municipal solid waste ("MSW") ("the proposed charging scheme"), including the charging mechanisms, enforcement arrangements, publicity and public education, etc.  The Administration then briefed members on its written response to the issues raised at the meeting on 5 December 2018 (LC Paper Nos. CB(1)396/18-19(03) and CB(1)563/18-19(01)).	
002714 - 003335	Chairman Mr YIU Si-wing Administration	<ul> <li>Mr YIU expressed support for the implementation of the proposed charging scheme. He sought the following information:</li> <li>(a) statistics on the performance of the 20 dedicated enforcement teams ("DETs") set up by the Food and Environmental Hygiene Department ("FEHD") for tackling illegal dumping of waste at black spots;</li> <li>(b) the work plan for the installation of surveillance cameras at smart lampposts to monitor fly-tipping activities;</li> <li>(c) when the Administration would ascertain the enforcement manpower required for implementing the proposed charging scheme; and</li> <li>(d) what actions would be taken by the Administration if a tourist had been found committing an offence under the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill ("the Bill") (if it was passed).</li> <li>The Administration responded that:</li> <li>(a) from the end of June 2017 to November 2018, DETs under FEHD had issued some 7 200 fixed penalty tickets. There was significant improvement in the environmental hygiene conditions of around 200 illegal dumping black spots over</li> </ul>	

Time marker	Speaker	Subject	Action required
		the same period;  (b) the Administration planned to install around 40 to 50 smart lampposts in 2019 under the pilot scheme of "Multifunctional Smart Lampposts". Cameras with smart technology would be provided at selected lampposts for enhancing deterrence against fly-tipping;	
		(c) various measures to promote waste reduction and recycling as well as an intensive publicity and public education programme would be implemented from now on and during the preparatory period that would be put in place after the passage of the Bill. The Administration would review and ascertain the actual manpower requirements for enforcement during this period having regard to, among other things, public response to the public education and publicity work, and the effectiveness of relevant measures; and	
		(d) tourists would not be exempted from the proposed charging scheme under the Bill. Nevertheless, it was expected that tourists would generally use litter containers ("LCs") in public places for waste disposal; or the waste they generated would be handled by the operators of hotels/guesthouses as well as retail and food establishments visited by tourists.	
003336 – 003823	Chairman Mr Frankie YICK Administration	Mr YICK enquired:  (a) whether (i) a resident would need to wrap recyclables in a designated bag ("DB") before depositing them into a recycling bin in a housing estate, and (ii) the property management company concerned would need to ensure that all recyclables collected in the recycling bin were wrapped in DB(s) before delivering them to another party, in order to avoid the commission of an offence under the proposed charging scheme (if the Bill was passed); and  (b) how to prevent evasion of the proposed MSW charge through the abuse of recycling bins in buildings/housing estates.	
		The Administration advised that some clauses in the Bill sought to provide that the depositing of non-compliant waste that was reasonably suitable for recycling into recycling bins would not be considered an offence. While the amount of source-separated recyclables was expected to increase upon the implementation of the proposed charging scheme, buildings and housing estates might consider adjusting the number of collection points for recyclables within the premises, thereby streamlining the collection arrangements.	

Time marker	Speaker	Subject	Action required
003824 – 004322	Chairman Mr HUI Chi-fung Administration	Mr HUI considered that the additional provision of around \$300 million to \$400 million starting from the financial year 2019-2020 for waste reduction and recycling initiatives would not be sufficient to prepare for the implementation of the proposed charging scheme.  The Administration clarified that there were existing resources for promoting waste reduction and recycling, and the additional provision would strengthen work on those fronts.  Discussion on enforcement manpower required for implementing the proposed charging scheme.	
004323 – 004900	Chairman Dr CHENG Chung-tai Administration	Exchange of views on the suggestion that the Administration should implement a producer responsibility scheme on packaging materials prior to the introduction of the proposed charging scheme.  Dr CHENG was concerned whether in the following scenario, a person would be subject to double penalty for an offence related to littering and another offence related to the depositing of non-compliant waste (if the Bill was passed): the person removed the packaging materials of a product and deposited them on the street without wrapping them in a DB.  The Administration clarified that under the proposed charging scheme, DBs/designated labels ("DLs") would be required for depositing MSW at specified locations. The proposed offences related to non-compliant waste under the Bill did not overlap with the offences related to littering under existing legislation.	
004901 – 005441	Chairman Ms Tanya CHAN Administration	Discussion on (a) how to make the video clip shown at the beginning of the meeting more impactful for the general public; (b) how the list of fly-tipping black spots would be drawn up for the purpose of enforcing the proposed charging scheme; and (c) the division of enforcement duties between the Environmental Protection Department ("EPD") and FEHD under the proposed charging scheme.  Ms CHAN asked about the locations at which reverse vending machines ("RVMs") would be installed for the recovery of waste plastic beverage containers under a pilot scheme.  The Administration responded that it planned to install RVMs at places frequented by many visitors and/or popular points of sale of plastic-bottled water/beverages, and the actual locations would be further drawn up.	

Time marker	Speaker	Subject	Action required
005442 – 010024	Chairman Mr Vincent CHENG Administration	Discussion on the risk-based enforcement approach to be adopted for the proposed charging scheme.  Mr CHENG expressed concern that the existing problem of people discarding domestic waste at the side of LCs in public places, which was prevalent in some old districts, would be aggravated by the proposed charging scheme (if the Bill was passed).  The Administration responded that while experiences in cities which had implemented MSW charging showed that fly-tipping might be aggravated during the initial stage of implementation of waste charging, it was expected that, with the intensive publicity and public education programme to be launched and the stepped-up efforts in enforcement, there would be improvements to the littering and fly-tipping problems over time in tandem with behavioural changes of the public.	required
010025 - 010652	Chairman Mr CHU Hoi-dick Administration	In order to expand the capacity of the recycling network to prepare for the implementation of the proposed charging scheme, Mr CHU suggested that the Administration should (a) consolidate the resources of EPD and FEHD with a view to enhancing the provision of space and facilities for resource recovery, and (b) incorporate resource recovery facilities into the project designs of new/reprovisioned refuse collection points.  The Administration responded that there was coordination between EPD and FEHD on the provision of space and facilities for resource recovery.  In response to Mr CHU's enquiry, the Administration would provide a written response on the respective numbers of people currently employed by the following parties for the collection of recyclables: (a) EPD; (b) Community Green Stations; (c) operators of collection outlets in the Community Recycling Network, including Community Recycling Centres, collection points run by non-governmental organizations, and Community Recycling Vehicles; and (d) the Government's contractors for recyclables collection services.	Admin (paragraph 3(d) of the minutes refers)
010653 – 011245	Chairman Mr Tony TSE Administration	Mr TSE said that he supported in principle the implementation of measures that accorded with the "polluter-pays" principle so as to reduce waste generation and disposal. He expressed concerns about:  (a) the impact of the implementation of the proposed charging scheme on the existing arrangements for the collection of recyclables within buildings/housing estates; and	

Time marker	Speaker	Subject	Action required
		<ul><li>(b) whether it would be necessary to define the specific types of recyclables that would not be subject to the proposed charging scheme.</li><li>The Administration responded that:</li><li>(a) if the Bill was passed, the Administration would, during the preparatory period, develop Best Practice Guides for relevant sectors to help them put the proposed charging</li></ul>	
		scheme into practice;  (b) broadly speaking, if there was a proper recycling or reuse outlet for a certain kind of material (such as used clothes), the material would be deemed to be reasonably suitable for recycling; and	
		(c) the Bill sought to provide that if the materials that were reasonably suitable for recycling were deposited into a container, or in an area, that was reasonably used for depositing materials for recycling, then the materials in question would not be subject to the proposed charging scheme.	
		Referring to paragraph 8 of the Administration's reply to Assistant Legal Adviser ("ALA")'s letter dated 4 December 2018 (LC Paper No. CB(1)396/18-19(01)), Mr TSE considered that the Administration should make it clear to the public that the term "municipal solid waste" as defined in the Bill included municipal waste in semi-solid and liquid forms as well.	
011246 - 011838	Chairman Mr AU Nok-hin Administration	Mr AU noted from paragraph 25 of the Administration's reply to ALA's letter dated 4 December 2018 (LC Paper No. CB(1)396/18-19(01)) that cleansing staff employed by the property management company of a building would have a duty to check whether the MSW they collected or delivered was non-compliant waste (if the Bill was passed). He expressed concerns that such staff might inadvertently commit an offence under the proposed section 20M(1) of the Waste Disposal Ordinance (Cap. 354) when handling non-compliant waste (if the Bill was passed). In particular, they might have merely followed the instructions of their supervisors/employers on how to handle such waste; or have limited understanding of what they would be expected to do in order to fulfil the conditions for establishing a defence under the proposed section 20Q of Cap. 354. He also asked how the enforcement officers would trace the sources of non-compliant waste in a building.	

Time marker	Speaker	Subject	Action required
Time marker 011839 – 013604	Chairman Ir Dr LO Wai- kwok Administration Mr CHAN Hak- kan	Subject  The Administration advised that:  (a) in order to effectively implement the proposed charging scheme, there was a need to impose certain requirements on the cleaning staff employed by property management companies. The Administration would develop and provide operational guidelines and provide training for such cleaning staff. Generally speaking, they would be expected not to collect from waste producers any MSW that was not wrapped in DBs or not attached with DLs (which would be non-compliant waste), or deliver non-compliant waste they identified to a person/party involved in the provision of removal services;  (b) while the cleaning staff would be expected to conduct visual screening of waste collected from the premises before it was loaded onto a waste collection vehicle, it would be impracticable to require them to check whether all waste mixed in a large refuse bin, which came from various households, was wrapped in DBs or attached with DLs; and  (c) based on intelligence and complaints received from the public and property management companies, the Administration would draw up a list of black spots of non-compliant waste disposal for conducting inspection and enforcement actions against offenders in individual buildings.  Discussion on the outlets for major types of recyclables and the Administration's long-term plan to support the development of local recycling businesses.  Mr CHAN considered that for better implementation of the proposed charging scheme, the Administration should give an undertaking, that it would collect domestic food waste and ensure that there would be proper recycling outlets for domestic food waste separated from the waste stream.	Action required
		for the collection and recycling of domestic food waste in its written response to questions on Organic Resources Recovery Centre ("ORRC") Phase 2 raised at the meeting of the Public Works Subcommittee on 28 November 2018 (LC Paper No. PWSC105/18-19(01)). In gist, part of the treatment capacities of ORRC Phase 1 and the "food waste/sewage sludge anaerobic co-digestion" trial scheme ("Trial Scheme") at the	
		Tai Po sewage treatment works ("STW") would be allocated for domestic food waste. Regarding the target premises of the free collection services for domestic food waste, the Administration would give priority to housing estates with	

Time marker	Speaker	Subject	Action required
		experience in food waste separation and recycling. A trial on large-scale collection of domestic food waste in Sha Tin would be carried out after the expansion of the Trial Scheme to the Sha Tin STW in 2022. Part of the treatment capacity of ORRC Phase 2 (if and after the relevant funding proposal was approved) would also be allocated to domestic food waste collected from households within the surrounding areas.	
		In response to Ir Dr LO's request, the Administration would provide supplementary information on whether the Environment Bureau/EPD had set up a dedicated team for carrying out duties relating to the operation and management of the recycling chain of each type of major recyclables (such as paper, plastics and metals); and if yes, the respective numbers of staff in such dedicated team.	Admin (paragraph 3(e) of the minutes refers)
013605 – 014310	Chairman Dr Fernando CHEUNG Administration	Discussion on FEHD's enforcement approach to environmental hygiene issues caused by the activities of scavengers who collected recyclables.	
	7 Kummisuution	Dr CHEUNG was worried that the implementation of the proposed charging scheme would pose additional legal risks to those scavengers. He asked whether the Administration would render more support to them, such as providing space for storage of equipment (e.g. handcarts) and separation of recyclables from the waste stream.	
		The Administration responded that it would require the contractor(s) for the pilot scheme on free collection service for waste plastics from non-commercial and non-industrial sources to engage non-profit organizations and/or people who were currently involved in the collection of recyclables.	
014311 – 014712	Chairman Mr YIU Si-wing Administration	Mr YIU asked whether a tourist should use a DB for disposal of refuse including bagged refuse (e.g. food waste and containers after the consumption of take-away meals) at LCs in public places under the proposed charging scheme.	
		The Administration responded that while disposal of litter at LCs in public places would not be subject to the proposed charging scheme, members of the public and tourists alike were not encouraged to dispose of a large quantity of refuse (such as bagged refuse) at LCs.	
		Mr YIU suggested that the Administration should consider offering rewards, such as free DBs, to encourage the public to more proactively practise waste reduction and separation. The Administration advised that it was reviewing the reward systems being adopted at Community Recycling Centres and Community Green Stations, with a view to improving the systems for incentivizing the practice of waste reduction and	

Time marker	Speaker	Subject	Action required
		resource recovery.  Extension of meeting	
014713 – 015028	Chairman Mr HUI Chi-fung Administration	Mr HUI remarked that according to paragraph 4 of the Administration's reply to ALA's letter dated 4 December 2018 (LC Paper No. CB(1)396/18-19(01)), the proposed MSW charge would not be payable by the Government pursuant to section 36(7) of Cap. 354, but government bureaux/departments ("B/Ds") would voluntarily pay the proposed MSW charge on an administrative basis. He asked about the rationale behind this arrangement, and how the proposed MSW charge would be paid by the B/Ds concerned.	
		The Administration responded that the B/Ds concerned would use DBs/DLs as appropriate for the disposal of MSW they generated (except in cases where certain MSW was generated as a direct and inevitable result of the delivery of public services). Similar administrative arrangements had been adopted by relevant B/Ds under other existing waste charging schemes, such as the Construction Waste Disposal Charging Scheme.	
		Mr HUI considered that an amendment to Cap. 354 should be introduced to the effect that the Government would be obliged to pay the proposed MSW charge for MSW it generated.	
015029 – 015341	Chairman Dr CHENG Chung-tai Administration	The Administration was requested to provide a written response to the questions below from Dr CHENG:  (a) whether recyclables collected locally by recyclers but subsequently disposed of at landfills would be subject to the proposed charging scheme (if the Bill was passed); and  (b) what would be the measures to prevent and detect counterfeiting of DBs and DLs; and penalties (if any) for the manufacturing, distribution, sale and use of counterfeit DBs/DLs.	Admin (paragraph 3(b) and (c) of the minutes refers)
015342 – 015655	Chairman Mr AU Nok-hin Administration	Referring to paragraph 41 of the Administration's reply to ALA's letter dated 4 December 2018 (LC Paper No. CB(1)396/18-19(01)), Mr AU considered that the Bill, if passed, would create undue administrative burdens on property management companies and/or the cleaning staff they employed, as they might need to maintain documentation to prove that they had taken all steps reasonably open to them to avoid the commission of an offence related to non-compliant waste, in order for them to rely on the statutory defence under the proposed section 20Q of Cap. 354. In addition, he suggested that the enforcement guidelines related to the proposed charging scheme should be made available to	

Time marker	Speaker	Subject	Action required	
		the general public, so that residents and frontline cleaning staff would better understand their respective responsibilities.		
015656 – 015827	Chairman Mr CHAN Hak- kan Administration	At the request of Mr CHAN, the Administration would provide supplementary information on the estimated amount of domestic food waste to be treated by ORRC Phases 2 and 3 after the facilities had become fully operational, and the proportion of such domestic food waste to all domestic food waste generated in Hong Kong.	Admin (paragraph 3(f) of the minutes refers)	
015828 - 020528	Chairman Dr Fernando CHEUNG Administration Mr CHU Hoi-dick	Further discussion on (a) FEHD's enforcement approach to environmental hygiene issues caused by the activities of scavengers, and (b) how to strengthen support for resources recovery, including whether the Administration would provide more space for the purpose and implement measures to facilitate the work of scavengers.  The Administration advised that issue (a) above might not be related to the proposed charging scheme. It would continue to explore the provision of more space for resource recovery through interdepartmental cooperation, and would remain open to suggestions from the community on how to support the work of scavengers.		
020529 – 020550	Chairman Mr AU Nok-hin	The Administration was requested to provide supplementary information on the steps that the property management company of a building and the cleaning staff it employed would generally be expected to take when handling non-compliant waste deposited in the building by a waste producer, in order to avoid the commission of an offence under the proposed section 20M(1) Cap. 354 or to establish a defence under the proposed section 20Q of Cap. 354 (if the Bill was passed).	Admin (paragraph 3(a) of the minutes refers)	
Agenda Ite	Agenda Item III — Any other business			
020551 – 020630	Chairman Administration	Date of next meeting		

Council Business Division 1 <u>Legislative Council Secretariat</u> 9 April 2019