

**立法會**  
***Legislative Council***

LC Paper No. CB(1)939/18-19  
(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 fourth meeting  
held on Tuesday, 26 March 2019, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon MA Fung-kwok, SBS, JP (Chairman)  
Hon Steven HO Chun-yin, BBS (Deputy Chairman)  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Frankie YICK Chi-ming, SBS, JP  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon Kenneth LEUNG  
Hon KWOK Wai-keung, JP  
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 CHU Hoi-dick  
Hon SHIU Ka-fai  
Hon Wilson OR Chong-shing, MH  
Hon CHAN Chun-ying, JP  
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

**Member attending** : Hon Michael TIEN Puk-sun, BBS, JP

**Members absent** : Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon Charles Peter MOK, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon CHUNG Kwok-pan  
Dr Hon Junius HO Kwan-yiu, JP  
Hon Tanya CHAN  
Hon HUI Chi-fung  
Hon Tony TSE Wai-chuen, BBS

**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 Gilbert MO  
Deputy Law Draftsman  
Department of Justice

Mr FORK Ping-lam  
Assistant Director (Operations)<sup>3</sup>  
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

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Action

**I. Confirmation of minutes**

(LC Paper No. CB(1)682/18-19 — Minutes of the meeting held on  
7 January 2019)

The minutes of the meeting held on 7 January 2019 were confirmed.

**II. Meeting with the Administration**

*Matters arising from previous meetings*

(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)737/18-19(01) — Administration's response to the  
list of follow-up actions arising  
from the meeting on 7 January  
2019

LC Paper No. CB(1)737/18-19(02) — Administration's response to the  
views and concerns expressed  
by deputations and individuals  
at the meeting on  
7 January 2019 and/or in the  
relevant written submissions

LC Paper No. CB(1)737/18-19(03) — List of follow-up actions arising  
from the meeting on  
18 February 2019

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LC Paper No. CB(1)737/18-19(04) — Administration's response to items (a), (b), (c) and (f) of the list of follow-up actions arising from the meeting on 18 February 2019

LC Paper No. CB(1)757/18-19(01) — Letter dated 21 March 2019 from Hon CHU Hoi-dick (Chinese version only))

*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

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

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

*(Post-meeting note: The Assistant Legal Adviser issued another letter to the Administration on 25 March 2019. The letter was circulated to members on 11 April 2019 vide LC Paper No. CB(1)875/18-19(03).)*

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Discussion

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

3. The Chairman suggested that, to facilitate members' deliberations on the policy aspect of the Bill, the Bills Committee might consider adopting a theme-based approach under which policy issues would be grouped into several themes for discussion, e.g. measures to support waste reduction and recycling, enforcement of the proposed charging scheme for the disposal of municipal solid waste ("MSW") ("the proposed charging scheme"), etc. Members noted the Chairman's suggestion, which would be further considered at the next meeting.

*(At 11:59 am, the Chairman left the conference room and the Deputy Chairman took the chair.)*

Follow-up actions to be taken by the Administration

- Admin 4. The Administration was requested to provide the following information:
- (a) regarding some members' concern that no charge was prescribed in existing legislation or under the Bill that would be payable by the Government for disposal of waste including MSW and members of the public might make use of this "loophole" to dispose of household waste at litter containers ("LCs") in government premises with a view to evading the proposed MSW charge (if the Bill was passed), whether there was any offence provision in existing legislation that might be applicable in relation to the disposal of household waste at LCs in, say, a public pleasure ground (e.g. a park managed by the Leisure and Cultural Services Department);
  - (b) where a cleaning worker employed by the property management company of a building equipped with a refuse chute deposited non-compliant waste into the refuse chute, whether the proposed section 20P(1) and (2) of the Waste Disposal Ordinance (Cap. 354) would apply, or the proposed section 20P(3)(c) of Cap. 354 would apply (so that the proposed section 20P(1) and (2) would not apply) (if the Bill was passed), including clarifying whether the act in question would be regarded as "connected with the removal of [MSW] from the premises" for the purpose of the proposed section 20P(3)(c);

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- (c) if non-compliant waste deposited by a household in a common area of any premises that was used for depositing waste pending removal for disposal ("common area for waste") would eventually be handled and removed by a party which provided MSW removal services for the premises, and as it could be difficult to trace which household had deposited the non-compliant waste in question even with the aid of a surveillance system installed at the common area for waste, how the Administration would ensure sufficient deterrence against depositing of non-compliant waste in the common areas for waste at public housing estates and multi-storey private buildings upon the implementation of the proposed charging scheme (if the Bill was passed), including whether installation of more surveillance systems on individual floors of the buildings would be considered;
- (d) details of interdepartmental cooperation on enforcement against fly-tipping activities, including the existing cooperation mechanism and new measures to be implemented in tandem with the launch of the proposed charging scheme (if the Bill was passed). In this connection, the Administration was also requested to explain whether it would consider developing a platform for real-time sharing of intelligence obtained from surveillance systems among relevant government departments (such as the Environmental Protection Department and the Food and Environmental Hygiene Department) to facilitate enforcement actions; if not, the reasons for that; and
- (e) how the Administration dealt with environmental nuisances arising from plastic recycling operations near residential areas.

**III. Any other business**

Date of next meeting

- 5. The Deputy Chairman advised that the next meeting would be held on Monday, 15 April 2019 at 10:45 am.
- 6. There being no other business, the meeting ended at 12:42 pm.

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

**Proceedings of the fourth meeting  
on Tuesday, 26 March 2019, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
<b><i>Agenda Item I – Confirmation of minutes</i></b>			
000821 – 000851	Chairman	Confirmation of the minutes of the meeting held on 7 January 2019.	
<b><i>Agenda Item II - Meeting with the Administration</i></b>			
000852 – 001102	Chairman	Opening remarks and the approach proposed to be adopted by the Bills Committee to facilitate deliberations.	
001103 – 001657	Chairman Administration	At the Chairman's invitation, the Administration briefed members on the following papers:  (a) Administration's response to the list of follow-up actions arising from the meeting on 7 January 2019 (LC Paper No. CB(1)737/18-19(01)); and  (b) Administration's response to items (a), (b), (c) and (f) of the list of follow-up actions arising from the meeting on 18 February 2019 (LC Paper No. CB(1)737/18-19(04)).	
001658 – 002106	Chairman Mr CHAN Chun-ying Administration	Discussion on the timetables for (a) launching the pilot scheme on the application of reverse vending machines to facilitate recycling of waste plastic beverage containers, and (b) commissioning the Integrated Waste Management Facilities Phase 1, with reference to paragraphs 18, 19 and 37 of the Administration's response to the views and concerns expressed by deputations and individuals at the meeting on 7 January 2019 and/or in the relevant written submissions (LC Paper No. CB(1)737/18-19(02)).	
002107 – 002545	Chairman Dr CHENG Chung-tai Administration	As the existing section 36(7) of the Waste Disposal Ordinance (Cap. 354) provided that no fee or charge prescribed for the purposes of Cap. 354 should be payable by the Government, Dr CHENG enquired whether the disposal of household waste by members of the public at litter containers ("LCs") in government premises and public pleasure grounds (e.g. parks, sports grounds and sports centres) –  (a) would be subject to the proposed charging scheme for the disposal of municipal solid waste ("MSW") ("the proposed charging scheme"); and	

Time marker	Speaker	Subject	Action required
		<p>(b) was an offence under the existing provision(s) of Cap. 354.</p> <p>The Administration was requested to provide written response on the above issue.</p> <p>In response to Dr CHENG's question, the Administration advised that all government bureaux and departments would voluntarily pay the proposed MSW charge on an administrative basis for MSW they generated (if the Bill was passed), except in cases where certain MSW was generated as a direct and inevitable result of the delivery of public services.</p>	Admin (paragraph 4(a) of the minutes refers)
002546 – 003011	Chairman Mr Wilson OR Administration	Given that the Administration planned to review the scope of and charging level under the Environmental Levy Scheme on Plastic Shopping Bags, Mr OR expressed concern about the impact of a potential increase in the charging level on people in financial hardship.	
003012 – 003610	Chairman Mr POON Siu-ping Assistant Legal Adviser ("ALA") Administration	<p>Mr POON sought clarification on the conditions that should be fulfilled in order for frontline cleaning staff employed by property management companies ("PMCs") to resort to the defence under the proposed section 20Q(1)(b) of Cap. 354, including whether they would need to maintain documentation (e.g. written instructions from their employers) to prove that they acted on their employers' instructions.</p> <p>The Administration responded that, given that waste collection/removal services in individual buildings were generally performed within a short time frame, frontline cleaning staff employed by PMCs would be expected to follow a generally simple procedure, which might include visual screening, to check whether the MSW they were to collect or remove was non-compliant waste (if the Bill was passed). If a cleaning worker had identified non-compliant waste and reported the situation to his/her employer/supervisor, and was subsequently instructed by the employer/supervisor verbally or otherwise to collect/remove the non-compliant waste nonetheless, then it was likely that he/she would be able to resort to the said defence clause, subject to the circumstances of individual cases.</p> <p>ALA pointed out that under the proposed section 20Q(1)(b) of Cap. 354, it would be a defence for a person charged with an offence under the proposed section 20K, 20L, 20M, 20N, 20O or 20P to prove that the person (a) did the act constituting the offence at the instruction of the person's employer etc., and (b) took all steps</p>	

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		<p>reasonably open to the person to avoid committing the offence. It was not stated in the proposed section 20Q(1)(b) that the defence would or would not be established if the person had only conducted visual screening of the MSW he/she was to collect.</p> <p>The Administration advised that, it was for the court to decide whether to consider the said verbal instruction of the employer/supervisor as constituting a valid defence under the proposed section 20Q(1)(b) of Cap. 354, and for effective implementation of the proposed charging scheme, the Administration would develop and provide operational guidelines for frontline cleaning staff. It was believed that if a defendant raised the defence under the proposed section 20Q(1)(b) of Cap. 354, the court would consider, among other things, the relevant operational guidelines.</p>	
003611 – 004248	Chairman Mr Gary FAN Administration	Discussion on measures to promote the recycling of waste paper and waste plastics.	
004249 – 004726	Chairman Dr Elizabeth QUAT Administration	<p>Dr QUAT expressed disappointment about the persistent fly-tipping and rodent problems at certain black spots. A case in point was the refuse collection point ("RCP") at Tai Shui Hang Village. She pointed out that according to some staff members of the Food and Environmental Hygiene Department ("FEHD"), the existing surveillance camera system outside the said RCP was installed by the Environmental Protection Department ("EPD"), and FEHD did not have direct access to the information obtained by the system. Besides, FEHD planned to apply for funding for the installation of its own surveillance camera system at the same black spot. The above appeared to indicate insufficient cooperation between EPD and FEHD and a duplication of resources.</p> <p>The Administration responded that an interdepartmental coordination mechanism had been put in place for combating fly-tipping and sharing of relevant intelligence on matters of mutual concern. Moreover, EPD had regular liaison meetings with FEHD and other relevant government departments to strengthen enforcement and review the list of construction and demolition waste fly-tipping black spots.</p>	
004727 – 005245	Chairman Mr WU Chi-wai Administration	<p>Mr WU considered that the Administration should ensure that there were recycling outlets for household food waste before implementing the proposed charging scheme.</p> <p>He asked whether, after the implementation of the</p>	

Time marker	Speaker	Subject	Action required
		<p>proposed charging scheme, frontline cleaning staff would be expected to leave non-compliant waste at where it was found pending the arrival of enforcement officers; and if the answer was in the affirmative, how to prevent environmental hygiene problems arising from the delayed removal of such waste.</p> <p>The Administration responded that fly-tipped waste at public places was normally cleared up as soon as possible in order to safeguard environmental hygiene.</p>	
005246 – 005732	Chairman Mr IP Kin-yuen Administration	Discussion on strengthening waste reduction and recycling education through school curriculum.	
005733 – 010333	Chairman Mr Michael TIEN Administration	<p>Mr TIEN pointed out that some public housing buildings were equipped with refuse chutes. Typically, waste deposited by individual households on each floor was passed down to a large refuse bin (e.g. a refuse bin with a volume of 660 litres) by a cleaning worker using the chute. Waste collected in the large refuse bin was then compacted on site if a compactor was available, pending further delivery to a waste collection vehicle. He sought explanation on how the PMC of such a building and/or its cleaning staff should handle non-compliant waste found on individual floors after the implementation of the proposed charging scheme, and how they might trace the sources of non-compliant waste to prevent the recurrence of the problems.</p> <p>The Administration explained that if a cleaning worker had identified non-compliant waste, he/she would be expected to report the situation to the supervisor/employer, and either the cleaning worker or the PMC concerned should report the non-compliant case to the Administration for taking enforcement actions under a risk-based approach. It was understood that some PMCs planned to provide designated bags ("DBs") on individual floors and require frontline cleaning staff to wrap non-compliant waste in DBs before passing the waste down a refuse chute, while some other PMCs planned to use a large DB (of a size of 240-litre or 660-litre) to collect all waste at the bottom of each refuse chute.</p>	
010334 – 010829	Chairman Mr CHU Hoi-dick Administration	<p>Mr CHU enquired about (a) the management of unmanned village-type RCPs; (b) tackling of environmental nuisances arising from plastic recycling operations near residential areas; and (c) the provision of space/facilities for resource recovery and recycling in the community.</p> <p>The Administration advised the contractor(s) for the pilot</p>	

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		scheme on free collection service for waste plastics from non-commercial and non-industrial sources would need to convert recovered plastics into raw materials or recycled products. The contractor(s) would be required by the contract(s) to ensure that the recycling operations could meet certain standards. This might help address the environmental problems caused by existing plastic recycling operations.	
010830 – 011245	Chairman Dr CHENG Chung-tai Administration	As the proposed charging scheme would pose additional legal duties to frontline cleaning staff, and part-time employees generally had less employment protection than full-time employees, Dr CHENG opined that the Housing Authority should not relax the restriction of employing part-time staff by service contractors of the Housing Department at this juncture. The Administration advised that the above matter was not directly related to the proposed charging scheme.	
011246 – 011827	Chairman Dr Elizabeth QUAT Administration	<p>Further discussion on interdepartmental cooperation on enforcement against fly-tipping activities.</p> <p>Dr QUAT considered that the Administration should use artificial intelligence to enable round-the-clock monitoring of fly-tipping black spots and improve enforcement efficiency. The Administration advised that artificial intelligence had been adopted in newly-installed surveillance camera systems of FEHD. Video clips of suspected acts of fly-tipping of construction waste recorded by such systems were forwarded to EPD for follow-up under the existing cooperation mechanism. EPD also planned to introduce artificial intelligence to its surveillance camera systems progressively in 2019 to enable round-the-clock monitoring of some fly-tipping black spots.</p>	
011828 – 012348	Chairman Mr Michael TIEN Administration Deputy Chairman	<p>Mr TIEN said that he supported the implementation of the proposed charging scheme in principle. He considered that the effectiveness of the proposed charging scheme would be undermined if PMCs would make arrangements to wrap non-compliant waste deposited by individual households into DBs during their routine waste collection/removal services.</p> <p>Discussion on (a) public engagement exercises related to the proposed introduction of MSW charging, and (b) monitoring of compliance situations in the common areas for depositing waste pending removal for disposal ("common areas for waste") at public housing estates and multi-storey private buildings upon the implementation of the proposed charging scheme.</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
012349 – 012918	Deputy Chairman Mr CHU Hoi-dick Administration	Discussion on the design and management of RCPs and bin sites in rural areas, and the risk-based enforcement approach for the proposed charging scheme.	
012919 – 013352	Deputy Chairman Dr Elizabeth QUAT Administration	Dr QUAT requested the Administration to provide in writing the details of interdepartmental cooperation on enforcement against fly-tipping activities, including the existing cooperation mechanism and new measures to be implemented in tandem with the launch of the proposed charging scheme (if the Bill was passed); and to explain whether it would consider developing a platform for real-time sharing of intelligence obtained from surveillance systems among relevant government departments (such as EPD and FEHD) to facilitate enforcement actions; if not, the reasons for that.	Admin (paragraph 4(d) of the minutes refers)
013353 – 014048	Deputy Chairman ALA Administration Mr Michael TIEN	<p>On the issue of handling of non-compliant waste by frontline cleaning staff of PMCs of buildings with refuse chutes as raised by Mr TIEN, ALA referred members to the proposed section 20P(1), (2) and (3)(c) of Cap. 354. Pursuant to the proposed section 20P(1) and (2), the depositing of non-compliant waste into a refuse chute would be an offence; but pursuant to the proposed section 20P(3)(c), the proposed section 20P(1) and (2) would not apply if the non-compliant waste was deposited "by any person in providing services connected with the removal of [MSW] from the premises".</p> <p>Mr TIEN sought clarification on whether the depositing of non-compliant waste into a refuse chute by a cleaning worker employed by PMC would be regarded as "connected with the removal of [MSW] from the premises" for the purpose of the proposed section 20P(3)(c) of Cap. 354. He also requested the Administration to explain how it would ensure sufficient deterrence against depositing of non-compliant waste in the common areas for waste at public housing estates and multi-storey private buildings upon the implementation of the proposed charging scheme, including whether installation of more surveillance systems on individual floors of the buildings would be considered.</p> <p>The Administration advised that it would provide supplementary information on the above issues.</p>	Admin (paragraph 4(b) and (c) of the minutes refers)
014049 – 014509	Deputy Chairman Mr CHU Hoi-dick Administration	The Administration was requested to provide supplementary information on how it dealt with environmental nuisances arising from plastic recycling operations near residential areas.	Admin (paragraph 4(e) of the minutes refers)

Time marker	Speaker	Subject	Action required
014510 – 015044	Deputy Chairman Dr CHENG Chung-tai Administration	<p>Dr CHENG enquired how the proposed charging scheme would be enforced in newer village-type developments. The Administration responded that the waste management system at those developments was similar to that at other villages, where residents generally disposed of their household waste at RCPs or bin sites nearby. Therefore, the same risk-based enforcement approach would apply.</p> <p>Dr CHENG expressed concern about the legal risks that the proposed charging scheme would pose to cleaning workers who removed MSW from village houses but were not formally employed by any company/organization. Moreover, he said that he was against the implementation of any scheme that would reward members of the public for reporting fly-tipping cases to the authorities.</p>	
015045 – 015517	Deputy Chairman Mr Vincent CHENG Administration	Discussion on the work of the new outreaching teams set up in three districts (i.e. Eastern, Kwun Tong and Sha Tin) at the end of 2018, and whether performance indicators related to the amounts of recyclables collected and waste reduced had been set for those outreaching teams.	
015518 – 020054	Deputy Chairman Administration	<p>The Deputy Chairman raised the following views and enquiries:</p> <ul style="list-style-type: none"> <li>(a) the Administration should clearly explain how it would overcome the potential difficulties in enforcing the proposed charging scheme and tackling fly-tipping problems under the scenarios described by members. It should also prioritize enforcement actions based on the seriousness of offences;</li> <li>(b) there was room for improving the waste collection systems in both urban and rural areas;</li> <li>(c) whether a designated label ("DL") would be required for each dismantled part of the same abandoned furniture under the proposed charging scheme; and</li> <li>(d) whether the disposal without DLs of furniture items damaged by a flood while the traffic conditions forbade the purchase of DLs would be handled with discretion.</li> </ul> <p>The Administration responded that it had explained in paragraphs 19 and 20 of its reply to ALA's letter dated 4 December 2018 (LC Paper No. CB(1)396/18-19(01)) the factors that might be considered when determining whether a piece of MSW should be treated as one or several articles. The Administration would draw up guidelines on enforcement arrangements for frontline</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
		enforcement staff (if the Bill was passed), and would give discretionary considerations to special circumstances when taking enforcement actions.	
<b><i>Agenda Item III – Any other business</i></b>			
020055 – 020132	Deputy Chairman	Date of next meeting	

Council Business Division 1  
Legislative Council Secretariat  
25 April 2019