

立法會
Legislative Council

LC Paper No. CB(1)862/19-20
(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 13th meeting
held on Wednesday, 20 May 2020, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Steven HO Chun-yin, BBS (Deputy Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon Charles Peter MOK, JP
Hon KWOK Wai-keung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Hon Elizabeth QUAT, BBS, JP
Hon POON Siu-ping, BBS, MH
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Dr Hon Junius HO Kwan-yiu, JP
Hon SHIU Ka-fai, JP
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying, JP
Hon HUI Chi-fung
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon Jeremy TAM Man-ho
Hon Vincent CHENG Wing-shun, MH, JP
Hon Tony TSE Wai-chuen, BBS

Member attending : Hon Starry LEE Wai-king, SBS, JP

Members absent : Hon MA Fung-kwok, SBS, JP (Chairman)
Hon Paul TSE Wai-chun, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon Kenneth LEUNG
Hon CHU Hoi-dick
Hon Tanya CHAN

Public Officers attending : **For item II**

Mr TSE Chin-wan, BBS, JP
Under Secretary for the Environment

Mr Bruno LUK
Deputy Director of Environmental Protection (Special Assignments)
Environmental Protection Department

Mr Kenneth CHAN
Assistant Director (Special Assignments)
Environmental Protection Department

Mr Ken WONG
Assistant Director (Environmental Compliance)
Environmental Protection Department

Mr FONG Kin-wa
Assistant Director (Waste Reduction and Recycling)
Environmental Protection Department

Mr CHENG Tak-kuen
Assistant Director (Waste Infrastructure Planning)
Environmental Protection Department

Miss Jessica CHENG
Senior Administrative Officer (Special Duties Division)
Environmental Protection Department

Mr LAI Siu-kwong
Senior Superintendent (Municipal Solid Waste Charging)/Acting Assistant Director (Operations)
Food and Environmental Hygiene Department

Mr Gilbert MO
Deputy Law Draftsman
Department of Justice

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)571/ — Minutes of the meeting held on
19-20 17 March 2020)

The minutes of the meeting held on 17 March 2020 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)641/ — Hon HUI Chi-fung's letter dated
19-20(01) 14 May 2020 to the Chairman (Chinese
version only))

Relevant papers

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

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

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

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

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

Action

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

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

LC Paper No. CB(1)875/ — Assistant Legal Adviser's letter dated
18-19(03) 25 March 2019 to the Administration

LC Paper No. CB(1)1000/ — Administration's reply to Assistant
18-19(04) Legal Adviser's letter dated
25 March 2019)

Discussion

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

(At 10:02 am, the Deputy Chairman ordered that the meeting be suspended to allow Bills Committee members who were also members of the Establishment Subcommittee ("ESC") to vote on an item at the ESC meeting held concurrently in Conference Room 1. The Bills Committee meeting resumed at 10:12 am.)

Follow-up action to be taken by the Administration

3. In view of members' concerns that the proposed definition of "wrapped in a designated bag" in clause 3(3) of the Bill would cause undue compliance burden on waste producers and frontline cleaning workers, the Administration undertook to consider reviewing the proposed definition.

(Post-meeting note: The Administration further explained at the meeting on 3 June 2020 the considerations behind the proposed definition, namely the existing general practice of the public in disposing of municipal solid waste ("MSW"), the importance of safeguarding the efficiency of the transportation and disposal of MSW, and the significance of ensuring the integrity of the proposed MSW charging scheme. While the primary policy objective of the proposed scheme was to require the public to make use of designated bags or designated labels for disposing of MSW, the Administration would give due consideration to members' views as appropriate.)

Action

III. Any other business

4. There being no other business, the meeting ended at 10:27 am.

Council Business Division 1
Legislative Council Secretariat
13 July 2020

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

**Proceedings of the 13th meeting
on Wednesday, 20 May 2020, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject	Action required
<i>Agenda Item I – Confirmation of minutes</i>			
001051 – 001114	Deputy Chairman	Confirmation of the minutes of the meeting held on 17 March 2020.	
<i>Agenda Item II – Meeting with the Administration</i>			
001115 – 002011	Deputy Chairman Mr HUI Chi-fung Clerk Administration Mr Tommy CHEUNG Mr Tony TSE	<p>The Deputy Chairman said that a letter dated 14 May 2020 from Mr HUI Chi-fung to the Chairman had been issued for members' reference (LC Paper No. CB(1)641/19-20(01)) (Chinese version only). In relation to the meeting schedule in the remainder of the current legislative session, members had been invited to indicate their availability for several proposed meetings from May to mid-June 2020, vide LC Paper No. CB(1)646/19-20 issued on 18 May 2020.</p> <p>Expression of views on the process of studying the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 ("the Bill").</p> <p>Mr HUI considered that the Chairman should provide a response to the issues mentioned in the letter.</p> <p>[<i>Post-meeting note:</i> a copy of the Clerk's letter dated 1 June 2020 written on behalf of the Chairman in reply to Mr HUI's letter was issued for members' reference on 2 June 2020, vide LC Paper No. CB(1)703/19-20(01) (Chinese version only).]</p>	
002012 – 002815	Deputy Chairman Administration Mr HUI Chi-fung Mr SHIU Ka-fai Mr KWOK Wai-keung	<p>The Deputy Chairman invited members to raise questions relating to the last theme of policy issues (i.e. "other issues") under the theme-based approach. As members did not raise any question in this respect, the Deputy Chairman advised that the Bills Committee would proceed to the clause-by-clause examination of the Bill.</p> <p>At the invitation of the Deputy Chairman, the Administration showed members a video clip, which provided a brief summary on several aspects of the proposed charging scheme for the disposal of municipal solid waste ("MSW") ("the proposed charging scheme"), including the charging modes, enforcement and preparation arrangements (including publicity and public education), etc.</p> <p>In response to Mr HUI and Mr SHIU's enquiries, the Administration advised that an older version of the video</p>	

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		<p>clip had been shown to members at an earlier meeting of the Bills Committee. The purpose of showing the updated video clip at this meeting was to facilitate the clause-by-clause examination of the Bill, given that the proposed MSW charging arrangements were quite complex.</p>	
<p><u>Clause-by-clause examination of the Bill</u> <i>[The Bill (LC Paper No. CB(3)97/18-19)]</i></p>			
<p>002816 – 003736</p>	<p>Deputy Chairman Assistant Legal Adviser 8 ("ALA") Mr KWOK Wai- keung Administration</p>	<p>It was decided that the Chinese text of each clause would be examined first.</p> <p>Part 1 – Preliminary</p> <p><u>Clause 1 – Short title and commencement</u></p> <p>ALA pointed out that he had issued two letters to the Administration (LC Paper Nos. CB(1)205/18-19(02) and CB(1)875/18-19(03)) to seek clarification on several matters regarding the Bill. One of the matters he raised was about the intended commencement of different provisions of the Bill, given that some sections of the Waste Disposal Ordinance (Cap. 354) would be amended by more than one provision of the Bill (if it was passed).</p> <p>The Administration's written replies to the two letters from ALA were given in LC Paper Nos. CB(1)396/18-19(01) and CB(1)1000/18-19(04). Concerning the commencement of the Bill's provisions, it was explained in paragraphs 5 and 6 of LC Paper No. CB(1)396/18-19(01) that the Administration intended to adopt a two-phase approach. Generally speaking, empowering or enabling provisions necessary for making preparation before the implementation of the proposed charging scheme would take effect around six months in advance, whereas the remaining provisions would take effect on the actual implementation date of the scheme. Commencement notices would be gazetted to this end, and they would be subject to the negative vetting procedure.</p> <p>The Administration further explained that the purpose of the said two-phase approach was to allow sufficient time for stakeholders to make preparations, e.g. developing manufacturing, inventory and distribution system on designated bags ("DBs") and designated labels ("DLs") as well as registration and accounting system.</p> <p>The Deputy Chairman asked whether the Administration would further consult the public on the sizes of DBs before commencement of the relevant provisions (if the Bill was passed).</p>	

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		<p>The Administration responded that it had collated information on the garbage bags designated for similar charging schemes in other jurisdictions. Dummy DBs were distributed under community involvement projects sponsored by the Environment and Conservation Fund and trial projects on MSW charging in different settings including public rental housing ("PRH") estates. In determining the sizes, shapes, designs, materials, etc. of DBs, the Administration would make reference to the experiences of other jurisdictions and stakeholders' feedback. The requirements for DBs and DLs would be specified by way of a notice published in the Gazette, which would be subject to the negative vetting procedure.</p> <p><u>Clause 2 – Enactments amended</u></p> <p>Members did not raise any question on clause 2.</p>	
003737 – 004443	Deputy Chairman Mr Tony TSE Administration	<p>Part 2 – Amendments to Waste Disposal Ordinance</p> <p><u>Clause 3 – Section 2 amended (interpretation)</u></p> <p><i>Clause 3(3): definition of "public waste vehicle"</i></p> <p>Members noted that the proposed definition of "public waste vehicle" was "a vehicle that is being used by, or on behalf of, the Director of Food and Environmental Hygiene ("Director of FEH") for removing MSW and disposing of it at a scheduled facility".</p> <p>Mr TSE and the Deputy Chairman sought elaboration on the specifications and requirements, if any, in respect of a public waste vehicle, in particular (a) whether a public waste vehicle must have an enclosed compartment equipped with a device designed for compacting waste within the compartment ("compactor"), and (b) how members of the public could identify a public waste vehicle.</p> <p>The Administration explained that:</p> <p>(a) any type of vehicle, with or without a compactor, would fall within the definition of public waste vehicle (if the Bill was passed) as long as it was used by the Food and Environmental Hygiene Department ("FEHD") or its contractors for removing MSW and disposing of it at a scheduled facility;</p> <p>(b) for premises whose MSW would be removed by private waste collectors not acting on behalf of the Director of FEH, should the premises choose to adopt charging by DBs after the implementation of the</p>	

Time marker	Speaker	Subject	Action required
		<p>proposed charging scheme, the MSW would be removed by using "private waste vehicles", which meant a vehicle with a compactor, among other things, under the proposed definition in clause 3; and</p> <p>(c) Division 4 of Part IVB proposed to be added to Cap. 354 sought to provide for matters in relation to the prescribed signs to be displayed on public waste vehicles and private waste vehicles for identification purposes.</p>	
004444 – 005543	<p>Deputy Chairman Mr Wilson OR Administration ALA Mr Vincent CHENG</p>	<p><i>Clause 3(1): definition of "collection authority"</i></p> <p>Members noted that the Administration proposed a textual amendment to the definition of "collection authority" in section 2(1) of Cap. 354, to the effect that "the Director of Food and Environmental Hygiene" would be replaced by its abbreviation "Director of FEH". The Administration further explained that "collection authority" meant the Director of Environmental Protection ("DEP") in relation to chemical waste and clinical waste; and Director of FEH and DEP in relation to any other waste (including MSW). No substantive change was proposed to the definition.</p> <p>Mr OR and Mr CHENG opined that the Administration should include the Director of Housing and some other relevant public officers in the definition of collection authority to facilitate the implementation of the proposed charging scheme in PRH estates and old residential buildings.</p> <p>The Administration explained that in general, MSW in PRH estates was/would be collected and removed by FEHD or its contractors from the estates' central refuse chambers. If the Bill was passed, DEP would be empowered to take enforcement actions against depositing of non-compliant waste ("NCW") (proposed to be defined as MSW that neither was wrapped in a DB nor had a DL attached to it) on individual floors of multi-storey buildings. The Administration planned to take such enforcement actions under a risk-based approach.</p> <p>Mr OR pointed out that cleaning services on individual floors of PRH buildings, including the removal of MSW deposited by households, were usually provided by the Housing Department's cleaning service contractors. As enforcement actions under the proposed risk-based enforcement approach might be difficult to trigger, he and Mr CHENG held that defining the Director of Housing and other relevant public officers as "collection authority" might clarify the responsibilities of the Environmental Protection</p>	

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		<p>Department, the Housing Department, the Home Affairs Department, etc. in relation to the proposed charging scheme, and facilitate enforcement against depositing of NCW.</p> <p>ALA remarked that under the existing section 23A of Cap. 354, "any public officer" might be authorized in writing by DEP or the collection authority, etc. to perform or exercise all or any of the functions, duties or powers which were imposed or conferred by Cap. 354. He enquired whether "any public officer" under that section would include officers of the Housing Department as mentioned by Mr OR.</p> <p>The Administration explained that FEHD currently provided waste collection services for PRH estates, and Division 2 of Part IVB proposed to be added to Cap. 354 sought to provide for six offences relating to non-compliance with the proposed charging scheme. The Administration added that the Bills Committee could discuss enforcement-related issues in detail when scrutinizing the proposed Part IVB.</p>	
005544 – 010404	Deputy Chairman Mr Tommy CHEUNG Mr HUI Chi-fung Administration Mr Vincent CHENG	Discussion on the estimated number of staff required for enforcement duties, outreaching services as well as publicity and public education efforts in connection with the proposed charging scheme (if the Bill was passed).	
010405 – 010827	Deputy Chairman Mr KWOK Wai-keung Administration ALA	<p><i>Clause 3(3): definition of "wrapped in a designated bag"</i></p> <p>Members noted that the proposed definition of "wrapped in a DB" was "completely contained in a DB with the bag's opening tied so that no solid contents can escape from the bag during handling and transportation".</p> <p>Mr KWOK enquired whether any of the following scenarios would render MSW falling outside the proposed definition of "wrapped in a DB":</p> <ul style="list-style-type: none"> (a) there was a small gap in the tied opening of the DB; (b) there was a small hole on the body of the DB; (c) an object perforated and protruded from the DB; and/or (d) liquid content escaped from the DB during its transportation. 	

Time marker	Speaker	Subject	Action required
		<p>The Administration explained that as long as the conditions stated in the proposed definition were fulfilled, none of the above scenarios would render the MSW concerned falling outside the proposed definition.</p> <p>Mr KWOK expressed concern about possibly inadvertent commission of related offences by a frontline cleaning worker if a DB was damaged in the course of its handling or transportation, resulting in the escape of its solid contents.</p> <p>ALA said that he shared Mr KWOK's concern and had raised a related question in paragraph 15 of LC Paper No. CB(1)205/18-19(02).</p> <p>The Administration advised that in general, a frontline cleaning worker charged with an offence relating to depositing of NCW could rely on statutory exemptions or defences proposed under the Bill (if the Bill was passed). The Administration would explain in detail when the Bills Committee examined the relevant provisions in the proposed Part IVB of Cap. 354.</p>	
010828 – 011324	Deputy Chairman Mr WU Chi-wai Administration	Discussion on the feasibility of installing food waste grinders (which shredded food waste into small pieces for disposal through the sewerage system) in residential buildings to promote the separation of dry and wet household waste at source.	
011325 – 015312	Deputy Chairman Dr CHENG Chung-tai Administration ALA Mr Tommy CHEUNG Ms Elizabeth QUAT Mr Wilson OR	<p><i>Clause 3(3): definition of "wrapped in a designated bag"</i></p> <p>Members noted that the term "wrapped in a DB" was referred to in the definition of NCW, and was related to the proposed offences under the proposed sections 20K, 20L, 20M, 20N, 20O and 20P of Cap. 354 ("the six proposed sections"). The proposed sections 20K and 20P sought to prohibit depositing of NCW (i) at a refuse collection point ("RCP"), (ii) onto a waste vehicle, (iii) into a specified bin, and (iv) in a common area of any premises that was used for depositing waste pending removal from the premises for disposal ("common area for waste"), whereas section 20M sought to prohibit delivering of NCW to removal service providers. The proposed sections 20L, 20N and 20O mainly concerned the responsibilities of the persons involved in the provision of removal services (proposed to be defined as services connected with the removal of MSW), including frontline cleaning workers, under the proposed charging scheme.</p> <p>The Administration advised that households had been generally adopting the practice of tying the opening of a garbage bag before depositing it at a common area for waste</p>	

Time marker	Speaker	Subject	Action required
		<p>due to environmental hygiene considerations. For the smooth implementation of the proposed charging scheme (if the Bill was passed), DBs of different sizes and designs, e.g. t-shirt and flat-top designs, would be made available at different retail outlets to cater for the needs of different users.</p> <p>Dr CHENG, Mr CHEUNG, the Deputy Chairman and Ms QUAT questioned whether it was appropriate to include "so that no solid contents can escape from the bag during handling and transportation (，令固體內載物不能在處理和運輸過程中，從該袋掉出)" in the proposed definition of "wrapped in a DB" ("the part of sentence"). They opined that the definition as it stood might cause undue compliance burden on waste producers and frontline cleaning workers, as whether a tied DB containing MSW would remain intact during its handling and transportation would be beyond those persons' control.</p> <p>ALA added that clause 6 of the Bill sought to amend section 31 of Cap. 354 to the effect that the prosecution would not need to prove that the defendant's acts or omissions in question were accompanied by any intention, knowledge or negligence as to any element of the proposed offences under the six proposed sections.</p> <p>The above members therefore considered that, as far as waste producers' responsibility in question was concerned (i.e. to ensure that the opening of a DB was properly tied when depositing the DB, and that no solid content escaped from the DB at that moment), the proposed definition of "wrapped in a DB" should preferably be narrowed by removing the part of sentence. Dr CHENG and the Deputy Chairman further suggested that the responsibilities of the persons involved in the provision of removal services be clarified, so that their responsibilities could be more clearly distinguished from that of waste producers.</p> <p>The Administration responded that:</p> <p>(a) the proposed provision was based on the existing waste disposal arrangements. The policy intent of defining "wrapped in a DB" in the way proposed was to prevent the mixing of individual waste items and untied DBs in refuse collection facilities after the implementation of the proposed charging scheme (if the Bill was passed), which would make it very difficult to assess compliance situation and identify offenders;</p> <p>(b) the part of sentence sought to clarify the meaning of "completely contained in a DB with the bag's opening</p>	

Time marker	Speaker	Subject	Action required
		<p>...tied" and to avoid possible misunderstanding, if any;</p> <p>(c) if at the moment of depositing MSW, the MSW was within the proposed definition of "wrapped in a DB", the person depositing the MSW would unlikely commit an offence under the proposed section 20K or 20P even if the DB was damaged (causing the MSW concerned falling outside the proposed definition) subsequently during its handling and transportation by another person; and</p> <p>(d) some of the proposed offences under the six proposed sections did not apply to persons involved in the provision of removal services. In other words, even if circumstances during MSW's handling and transportation rendered the MSW falling within the definition of NCW, the person involved in the MSW's handling and/or transportation would not necessarily commit an offence relating to depositing/delivery of NCW under the relevant proposed sections.</p> <p>ALA sought members' clarification as to whether they wanted to amend the part of sentence along the line of "so that no solid content escapes from the bag at the time it is deposited (, 和擺放該袋時 , 沒有固體內載物從該袋掉出)", to the effect that the meaning of "completely contained in a DB with the bag's opening tied" could be clarified without mentioning DB's handling and transportation after it was deposited.</p> <p>Ms QUAT and Mr OR stressed the importance of defining the term or explaining the issues concerned clearly to avoid possible misunderstanding and unnecessary disputes.</p> <p>The Administration undertook to consider reviewing the definition of "wrapped in a DB" with a view to addressing members' concerns above.</p> <p>Mr CHEUNG said that he intended to move an amendment to the definition of the term.</p> <p>The Deputy Chairman suggested that the Bills Committee re-examine the definition of the term when studying the six proposed sections.</p>	<p>Admin (paragraph 3 of the minutes refers)</p>
015313 – 015959	Deputy Chairman Administration Mr Tommy CHEUNG	<p><i>Clause 3(3): definition of "refuse collection point"</i></p> <p>The Deputy Chairman asked about the design of the prescribed sign planned to be exhibited at each RCP for the implementation of the proposed charging scheme (if the Bill was passed).</p>	

Time marker	Speaker	Subject	Action required
		The Administration responded that if the Bill was passed, the specifications of the prescribed sign to be exhibited at RCPs would be provided in the relevant notice to be published in the Gazette pursuant to the proposed section 20X of Cap. 354.	
<i>Agenda Item III – Any other business</i>			
020000 – 020122	Deputy Chairman	Concluding remarks	

Council Business Division 1
Legislative Council Secretariat
13 July 2020