

立法會
Legislative Council

LC Paper No. CB(1)872/19-20
(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 14th meeting
held on Wednesday, 3 June 2020, at 8:30 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 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 SHIU Ka-fai, JP
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 Vincent CHENG Wing-shun, MH, JP
Hon Tony TSE Wai-chuen, BBS

Member attending : Hon CHAN Hoi-yan

Members absent : Hon Kenneth LEUNG
Hon CHUNG Kwok-pan
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP

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 Lawrence CHEUNG
Principal Environmental Protection Officer (Regional West)
Environmental Protection Department

Mr Ricky LIU
Principal Environmental Protection Officer
(Community Relations)
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)670/ — Minutes of the meeting held on
19-20 21 April 2020)

The minutes of the meeting held on 21 April 2020 were confirmed.

II. Meeting with the Administration

Clause-by-clause examination of the Bill

(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/ — 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

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

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

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

Discussion

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

(At 10:16 am, the 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 10:23 am.)

(At 10:29 am, the Chairman ordered that the meeting be extended for 5 minutes beyond the appointed ending time.)

Follow-up actions to be taken by the Administration

3. The Administration was requested to provide the following information in connection with clause 3(3) of the Bill before the next meeting:

- (a) the draft wording of the subsidiary legislation relating to the prescribed signs to be exhibited on "waste vehicles" concerning the proposed section 20X of the Waste Disposal Ordinance (Cap. 354) and related information, in particular the draft wording and formats of, and the ways of exhibiting the signs;
- (b) whether the Administration would, for avoidance of doubt, consider moving an amendment to the effect that the term "municipal solid waste" under clause 3(3) would be expressly defined to include waste in semi-solid and liquid forms; and if so, whether the Administration would consider preparing and providing the draft wording of the amendment; and
- (c) the Administration's position on the suggestion of considering amending the term "waste collection officer", with a view to addressing certain members' concern that it was possible that in the eyes of some members of the general public, the term as now

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drafted might be construed as a generic term covering any worker who provided waste collection service.

(Post-meeting note: The Administration's written response was circulated to members on 9 and 11 June 2020, vide LC Paper No. CB(1)739/19-20(02).)

III. Any other business

4. There being no other business, the meeting ended at 10:31 am.

Council Business Division 1
Legislative Council Secretariat
17 July 2020

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

**Proceedings of the 14th meeting
on Wednesday, 3 June 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>			
001000 – 001119	Chairman	Confirmation of the minutes of the meeting held on 21 April 2020.	
<i>Agenda Item II – Meeting with the Administration</i>			
<u>Clause-by-clause examination of the Bill</u> [The Bill (LC Paper No. CB(3)97/18-19)]			
001120 – 002708	Chairman Administration Mr Tony TSE Mr Wilson OR	<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 "private waste vehicle"</i></p> <p>In response to Mr TSE's enquiry, the Administration advised that the terms "private waste vehicle", "public waste vehicle" and/or "waste vehicle" would be referred to in the proposed sections 20K, 20L, 20M, 20N, 20O and 20P of the Waste Disposal Ordinance (Cap. 354) ("the six proposed sections"), which sought to provide for some offences relating to non-compliance with the proposed charging scheme for the disposal of municipal solid waste ("MSW") ("the proposed charging scheme")</p> <p><i>Clause 3(3): definition of "designated bag"</i></p> <p>Members noted that pursuant to the proposed section 20T of Cap. 354, the requirements for designated bags ("DBs") would be specified by way of a notice published in the Gazette, which would be subject to the negative vetting procedure.</p> <p>Mr TSE expressed concern about inadvertent commission of related offences by a frontline cleaning worker if there was a design or manufacturing defect in a DB, resulting in the damage of the DB in the course of its handling or transportation (if the Bill was passed).</p> <p>The Administration reiterated that some of the proposed offences under the six proposed sections would not apply to certain persons involved in the provision of removal services (proposed to be defined as services connected with the removal of MSW). Moreover, the proposed section 20Q</p>	

Time marker	Speaker	Subject	Action required
		<p>of Cap. 354 sought to provide for statutory defences to those proposed offences.</p> <p>As some frontline cleaning workers might not be able to fully understand the relevant legal provisions (if the Bill was passed), Mr TSE remained of the view that the Administration should ensure that DBs would be durable enough and would not be damaged during normal handling and transportation, so as to minimize compliance burden on frontline cleaning workers.</p> <p>Mr OR expressed a similar view and asked about the quality control mechanism to be put in place for the production of DBs.</p> <p>The Administration responded that it had been keeping in view the use of garbage bags designated for similar MSW charging schemes in other jurisdictions, including the qualities and formats of those bags. Dummy designated garbage bags ("dummy bags") were distributed under community involvement projects and trial projects carried out in different types of premises and their specifications had improved over the years. Participants generally gave positive feedback on the materials used in and durability of the dummy bags. The Administration would continue to explore ways to improve the designs and specifications of dummy bags, so as to better meet users' needs. It was expected that the experience gained from the ongoing and future community involvement projects would continue to shed light on ways to further enhance the designs of DBs.</p> <p>The Chairman advised that enforcement-related issues should be discussed when examining the proposed provisions relating to offences.</p>	
002709 – 004156	Chairman Mr Tommy CHEUNG Administration	<p><i>Clause 3(3): definitions of "public waste vehicle", "private waste vehicle" and "waste vehicle"</i></p> <p>Members noted that, if the Bill was passed, the specifications of the prescribed signs to be exhibited on waste vehicles (i.e. either public waste vehicles or private waste vehicles, according to the proposed definition in the Bill), including the wordings and formats of, and the ways of exhibiting the signs, would be provided for in subsidiary legislation to be made pursuant to the proposed section 20X of Cap. 354.</p> <p>As the prescribed signs would be an integral part of the proposed charging scheme, Mr CHEUNG held a strong view that the Administration should provide the draft</p>	Admin (paragraph 3(a) of the

Time marker	Speaker	Subject	Action required
		<p>wording of the said subsidiary legislation and related information, in order to facilitate the examination of the Bill's provisions. The Administration undertook to provide the requested information to the Bills Committee.</p> <p>Mr CHEUNG pointed out that some MSW was currently collected by private waste collectors ("PWCs") that were not the contractors of the Food and Environmental Hygiene Department ("FEHD"), using vehicles without "an enclosed compartment equipped with a device designed for compacting waste within the compartment" ("compactor"), such as grab lorries. He sought clarification on the regulatory requirements under the proposed charging scheme for such vehicles, which would not fall within the proposed definitions of "waste vehicle", "public waste vehicle" and "private waste vehicle".</p> <p>The Administration explained that the terms "waste vehicle", "public waste vehicle" and "private waste vehicle" were related to charging by DBs and designated labels ("DLs"), and the relevant proposed provisions were in Part 2 of the Bill.</p> <p>After the implementation of the proposed charging scheme (if the Bill was passed), MSW collected by PWCs using vehicles without a compactor would be subject to charging by gate fees. The relevant proposed provisions were set out in Part 3 of the Bill. Clause 18 of the Bill sought to provide for, among other things, the registration arrangement under which the Director of Environmental Protection ("DEP") might register such a vehicle as a "permitted vehicle" for a scheduled facility.</p>	minutes refers)
004157 – 005339	Chairman Dr CHENG Chung-tai Administration	<p><i>Clause 3(3): definition of "designated bag"</i></p> <p>In connection with the definition of DB, Dr CHENG asked:</p> <p>(a) what was the purpose of the proposed section 20S(2)(c) of Cap. 354, which read "The Director may, on the terms and conditions specified by the Director, authorize any person to supply, in the course of a profit-seeking business, DBs or DLs for free"; and</p> <p>(b) whether non-profit making organizations could also be authorized to supply DBs for free, if the Bill was passed.</p> <p>The Administration responded that:</p> <p>(a) as a part of the public education and publicity efforts to raise awareness of the proposed charging scheme, the</p>	

Time marker	Speaker	Subject	Action required
		<p>Administration would consider collaboration with authorized suppliers of DBs in promotional activities involving the provision of DBs for free where appropriate (if the Bill was passed). The proposed section 20S(2)(c) of Cap. 354 was aimed at empowering DEP to authorize the supply of DBs to achieve the above purpose where warranted;</p> <p>(b) when processing an application for an authorization under the proposed section 20S(2)(c), the Administration would consider whether the activity concerned was in line with the policy objective of the proposed charging scheme, the "polluter-pays" principle and other relevant factors; and</p> <p>(c) the proposed section 20S(1)(c) sought to empower DEP to supply DBs and/or DLs for free to non-profit making organizations for mounting volunteer activities such as waste collection at beaches and shorelines after the implementation of the proposed charging scheme.</p> <p>Dr CHENG further enquired whether the term "profit-seeking business" should be expressly defined to enhance clarity of the proposed section 20S(2)(c). The Chairman advised that the issue could be discussed in detail when examining the relevant clause.</p>	
005340 – 005809	Chairman Deputy Chairman Administration	<p><i>Clause 3(3): definition of "private waste vehicle"</i></p> <p>The Deputy Chairman said that some of the signs currently exhibited on the waste collection vehicles of FEHD's contractors appeared inconspicuous or of varying formats. He therefore called on the Administration to ensure that the prescribed signs to be exhibited on waste vehicles (if the Bill was passed) would be conspicuous and uniform.</p> <p><i>Clause 3(3): definition of "designated bag"</i></p> <p>The Deputy Chairman suggested that a special type of DB made of more durable material be provided to frontline cleansing workers, so as to address members' concerns about inadvertent commission of offences relating to non-compliant waste ("NCW") by frontline cleaning workers in the course of providing removal services (if the Bill was passed).</p> <p>The Administration took note of the above suggestion and responded that under its current plan, DBs would be given to workers employed by FEHD or its contractors for the provision of removal services. The Environmental Protection Department and the FEHD would jointly</p>	

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		formulate the relevant arrangements, if the Bill was passed.	
005810 – 010448	Chairman Mr Tommy CHEUNG Administration	<p>Mr CHEUNG enquired whether the Administration would consider providing a special type of DB to food establishments to promote source separation and recycling of food waste.</p> <p>The Administration clarified that a vehicle used for collecting source-separated food waste (which was a kind of recyclable) and delivering it to an organic resources treatment facility would not fall within the proposed definition of a "waste vehicle" under the Bill, and the food waste concerned would not be subject to the proposed MSW charging arrangements.</p>	
010449 – 010635	Chairman Mr Wilson OR Administration	Discussion on the suggestion of distributing dummy bag of larger sizes under the MSW charging trial projects in some public rental housing ("PRH") estates.	
010636 – 011508	Chairman Mr Tommy CHEUNG Administration	<p><i>Clause 3(3): definitions of "public waste vehicle", "private waste vehicle" and "waste vehicle"</i></p> <p>Mr CHEUNG asked why it would be necessary for a vehicle to be registered as a "permitted vehicle" (as defined in Part 3 of the Bill) in order to conduct the business of collecting MSW and disposing of it at a scheduled facility by paying a gate fee.</p> <p>The Administration advised that if the Bill was passed, the owner/operator of such a vehicle should be registered as an account-holder for payment of a gate fee, and information about the vehicle should be submitted together with the application for registration. An invoice for a gate fee would contain information about the account-holder, the amount of gate fee payable, etc. It was envisaged that these registration arrangements could safeguard the interests of both account-holders and the Government, and ensure that only suitable vehicles would be permitted to use certain scheduled facilities.</p> <p>Mr CHEUNG opined that the text of the Bill was overly complicated, and the various definitions for waste collection vehicles were a case in point.</p> <p>The Administration explained that the definitions for waste collection vehicles were drafted in the way proposed with a view to reflecting the existing operational modes of waste collection services, which formed the basis of the proposed framework of the MSW charging regime having regard to the outcomes of public consultations and public engagement</p>	

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		<p>conducted by the Council for Sustainable Development. The operational modes had the following characteristics:</p> <ul style="list-style-type: none"> (a) while the MSW collection services provided by FEHD and its contractors covered most premises, some of the remaining MSW was collected by PWCs not acting as FEHD's contractors; (b) some PWCs' vehicles were equipped with a compactor, and such vehicles were dedicated for collection of MSW; and (c) some other vehicles of PWCs (such as grab lorries, demountable trucks and tippers) had multiple functions and were not solely used for collecting MSW. 	
011509 – 011933	Chairman Administration Deputy Chairman Mr Wilson OR	<p><i>Clause 3(3): definitions of "collection authority" and "Director of FEH"</i></p> <p>Further discussion on the different roles of the Housing Department ("HD") and FEHD in respect of the removal of MSW generated from PRH households.</p> <p>The Administration explained that under the existing MSW collection and disposal system, MSW deposited by individual households of a PRH estate was normally collected by HD's cleaning contractor and temporarily deposited at a refuse room/station pending removal by FEHD or its contractor. Likewise, this work flow was adopted by private housing estates in general. This operational mode was expected to be maintained after the implementation of the proposed charging scheme (if the Bill was passed).</p>	
011934 – 012759	Chairman Administration Assistant Legal Adviser 8 ("ALA") Mr Tommy CHEUNG Mr Vincent CHENG	<p><i>Clause 3(3): definition of "municipal solid waste"</i></p> <p>Members noted that the proposed definition of "MSW" was "any waste except (a) chemical waste; (b) clinical waste; and (c) construction waste".</p> <p>ALA remarked that, in response to his enquiry (paragraph 7 of LC Paper No. CB(1)205/18-19(02)), the Administration affirmed in paragraph 8 of LC Paper No. CB(1)396/18-19(01) that it was the policy intention that the term "MSW" would include waste in semi-solid and liquid forms.</p> <p>Mr CHEUNG and Mr CHENG expressed concern that in the eyes of some members of the public, the term "MSW" might possibly be construed as excluding waste in semi-solid and liquid forms, and some of them might commit NCW-related offences inadvertently due to</p>	

Time marker	Speaker	Subject	Action required
		<p>misunderstanding of the term "MSW" (if the Bill was passed). Mr CHEUNG asked whether the Administration would consider amending the wording and/or definition of the term.</p> <p>For members' and the Administration's reference, ALA pointed out that according to section 6903 of Title 42 of the United States Code, the term "solid waste" meant "any garbage, refuse... including solid, liquid, semisolid, or contained gaseous material...". He asked whether the Administration might consider moving an amendment to the effect that the term "MSW" would be expressly defined to include waste in semi-solid and liquid forms.</p> <p>The Administration further elaborated that the term "MSW" as a common nomenclature was not confined to MSW in solid form, but also in other forms. Such usage was adopted in other places as well. The Administration therefore did not consider it necessary to expressly define MSW in the Bill to include semi-solid and liquid forms. The Administration undertook to provide a written response to further explain the above issue.</p> <p>Mr CHENG asked whether the proposed charging scheme would be applicable to fly-tipped construction waste that was mixed with MSW.</p> <p>The Administration responded that pursuant to the six proposed sections, depositing of NCW would be prohibited at specified locations (if the Bill was passed). The disposal of construction waste would continue to be subject to relevant existing regulatory requirements.</p>	<p>Admin (paragraph 3(b) of the minutes refers)</p>
<p>012800 – 015639</p>	<p>Chairman Administration Mr Tommy CHEUNG ALA Deputy Chairman</p>	<p><i>Clause 3(3): definition of "non-compliant waste"</i></p> <p>Members noted that the proposed definition of "NCW" was "MSW that neither is wrapped in a DB nor has a DL attached to it". The Deputy Chairman expressed concern that the proposed definition might be too broad, and asked whether it would also cover the water used to clean a public place soiled by dog excreta.</p> <p>The Administration explained that the proposed offence relating to the depositing of NCW under the proposed section 20K of Cap. 354 would apply at specified locations, namely refuse collection points ("RCPs"), waste vehicles and specified bins. As regards public hygiene issues such as that mentioned by the Deputy Chairman, enforcement actions would continue to be taken under the relevant existing regulations.</p>	

Time marker	Speaker	Subject	Action required
		<p>The Deputy Chairman suggested that the Bills Committee might need to re-examine the definition of "NCW" when studying the proposed offences.</p> <p><i>Clause 3(3): definition of "waste collection officer"</i></p> <p>Members noted that the proposed definition of "waste collection officer" was "a person who (a) is employed by the Government; and (b) carries out the duty of loading MSW onto a public waste vehicle or moving MSW at an RCP". The Administration advised that in general a waste collection officer would be an employee of FEHD who would be responsible for MSW collection and removal (if the Bill was passed).</p> <p>Mr CHEUNG asked about the differential treatment for waste collection officers and other frontline cleaning workers who were not government employees. The Chairman sought clarification on whether a person would commit an offence if he was not employed by the Government but performed the act of loading MSW onto a public waste vehicle or moved MSW at an RCP (if the Bill was passed).</p> <p>ALA added that he had raised questions about the differential treatment in his letters to the Administration (LC Paper Nos. CB(1)205/18-19(02) and CB(1)875/18-19(03)), and there had been discussion on this issue at the meeting on 15 April 2019. In gist, the proposed offence under the proposed section 20L(1) of Cap. 354 (regarding the depositing of NCW at an RCP or onto a waste vehicle) would only apply to non-government employees, including those of FEHD's contractors and other PWCs, and would not apply to government employees whose duties were to handle MSW.</p> <p>The Administration advised that three major parties would be involved in the provision of removal services, namely FEHD, FEHD's contractors, and PWCs not serving as FEHD's contractors. Each of the proposed offences under the six proposed sections had specific target persons. The Administration would further explain the responsibilities of different persons under the proposed charging scheme and the applicability of the proposed offences when the Bills Committee examined the relevant proposed provisions.</p> <p>The Chairman expressed concern that the term "waste collection officer" as now drafted might be misconstrued by some members of the general public as a generic term covering any worker who provided waste collection service.</p>	

Time marker	Speaker	Subject	Action required
		<p>He therefore asked whether the Administration would consider amending the term.</p> <p>Mr CHEUNG also considered that, if the term "waste collection officer" was used to describe government employees, there might be a need to create a term to describe non-government employees involved in the provision of removal services, so as to avoid confusion.</p> <p>The Administration advised that it would study the issues above and further explain its position in writing after the meeting.</p> <p>Mr CHEUNG enquired whether MSW of old residential buildings currently not covered by FEHD's removal service would be collected by waste collection officers after the implementation of the proposed charging scheme. The Administration explained that at present, such MSW was generally removed by PWCs or deposited at RCPs directly by the residents. It was envisaged that this collection mode would not be changed after the implementation of the proposed charging scheme.</p>	Admin (paragraph 3(c) of the minutes refers)
015640 – 020426	Chairman Dr CHENG Chung-tai Administration	Discussion on the scope of the proposed offences under the six proposed sections.	
<i>Agenda Item III – Any other business</i>			
020427 – 020501	Chairman	Concluding remarks	