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

Background brief

Purpose

This paper provides background information on the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 ("the Bill"). It also summarizes the major views and concerns expressed by Members on the proposed introduction of municipal solid waste ("MSW") charging in Hong Kong and related issues.

Background

Collection and disposal of municipal solid waste

2. MSW comprises domestic, commercial and industrial solid waste, and excludes construction and demolition waste, chemical waste and other special waste. The Food and Environmental Hygiene Department ("FEHD") and its contractors provide direct waste collection services for most residential buildings managed by property management companies, including public housing estates and various institutional premises. Waste collected from these sources is conveyed to landfills or refuse transfer stations ("RTSs") without any charges levied on the waste producers. Waste of commercial and industrial ("C&I") establishments and that of some residential buildings is collected and delivered to landfills or RTSs by private waste collectors ("PWCs"). A charge is payable by PWCs for MSW delivered to RTSs.¹

¹ The charge, currently in the range of \$30 – \$110 per tonne, was intended to enable the Government to recover at least the marginal cost for handling waste delivered to RTSs by PWCs. Other than that, no charge is required for MSW disposed of at landfills. Separately, individual charging schemes are in place for the disposal of chemical waste, construction waste and clinical waste in Hong Kong.

Public engagement exercises on municipal solid waste charging

3. Based on the findings of a public consultation in 2012, the Administration affirmed that quantity-based MSW charging should be the broad direction in pursuing MSW reduction. In 2013, the Council for Sustainable Development ("SDC") conducted a second-stage public engagement exercise on the implementation framework of MSW charging. In its report, SDC recommended that (a) for equity and in line with the "polluter pays" principle, MSW charging should be implemented across the board for all sectors in one go; (b) the charging mechanism should be built upon the existing MSW collection and disposal system so as to minimize adverse impacts on environmental hygiene; and (c) the level of charges should be directly related to the quantity of waste disposed of by MSW producers. The Administration further held a number liaison sessions, meetings, seminars and forums in 2017 to gauge views from the community on the implementation arrangements.

Proposed implementation arrangements

Charging modes and charging levels

4. Having regard to the implementation framework proposed by SDC and views from various stakeholders, the Administration has proposed the two charging modes below:

- (a) for MSW collected by FEHD, as well as MSW collected by PWCs using refuse collection vehicles with rear compactors, charging will be imposed through requiring the use of pre-paid designated garbage bags or designated labels. Some 80% of daily MSW disposed of at landfills will be subject to this charging mode; and
- (b) for the remaining MSW collected by PWCs using refuse collection vehicles without compactors, such as grab lorries, demountable trucks and tippers, a gate fee will be charged at landfills or RTSs based on the weight of MSW disposed of.²

² When the Administration consulted the Panel on Environmental Affairs on 27 March 2017, the then proposed MSW charging framework included a transitional period to allow residential buildings using FEHD's direct waste collection services to adopt a "bin-counting" charging mechanism on the basis of "by volume of waste disposed by the building", and applied the gate-fee arrangement to all MSW disposal through PWCs (regardless of how the waste would be collected by PWCs). After taking into account the stakeholders' views, the Administration subsequently removed the bin-counting arrangement and extended the scope of application of pre-paid designated garbage bags to MSW collected by PWCs using refuse collection vehicles with rear compactors, and put forth the revised charging modes as mentioned in paragraph 4 above during the subsequent consultation with the Panel on 30 October 2017. The revised charging modes have been incorporated in the legislative proposal under the Bill.

5. Under the current proposal, the charge for designated garbage bags is set at \$0.11 per litre.³ The designated garbage bags will be of nine different sizes from 3-litre up to 100-litre to cater for the needs of different users. For designated labels, which are to be used for oversized waste that cannot be wrapped in a garbage bag, a uniform rate of \$11 per label is proposed (i.e. equivalent to the price of a 100-litre designated garbage bag).

6. The gate fee is proposed to be \$395 per tonne at the four urban RTSs and Northwest New Territories Transfer Station, and \$365 per tonne at other RTSs and landfills.⁴ A hybrid registration system will be adopted under which both PWCs and waste producers can be registered as account holders for paying the gate fee.⁵ The charging levels of designated garbage bags, designated label and gate fee will be maintained for the first three years of implementation of MSW charging, and a review will be conducted thereafter.

Implementation strategy and enforcement

7. To drive necessary behavioural changes, the Administration plans to adopt a multipronged strategy that includes (a) provision of a preparatory period of 12 to 18 months after the passage of the relevant legislative proposal; (b) enhanced support for waste reduction and recycling; (c) intensive public education, publicity and engagement drives; (d) application of innovation and technology initiatives; (e) assistance for the needy through increasing the standard rates under the Comprehensive Social Security Assistance Scheme; and (f) a risk-based enforcement approach.

8. A six months' phasing-in period will be put in place after the commencement of MSW charging. During this period, frontline staff of FEHD will conduct visual screening at waste reception points and reject non-compliant waste. Warnings will be given to offenders, unless the nature and magnitude of the offence call for enforcement actions. After the phasing-in period, strict enforcement actions will be taken on a risk-based approach, with particular attention given to black spots. The Environmental Protection Department

³ At this charging level, if a three-member household uses a 10-litre designated garbage bag for daily disposal of MSW, it will have to pay around \$33 a month.

⁴ To avoid any over-capacity problem, the existing charging differential of \$30 per tonne between disposal at urban RTSs and landfills is proposed to be maintained after the implementation of MSW charging and be applied to Northwest New Territories Transfer Station. The charging level for disposal of MSW at other RTSs will remain at the same level as that at landfills because there is no alternative waste disposal outlet to those RTSs.

⁵ This proposed arrangement aims to address the concerns of PWCs about potential cash flow and bad debt problems which may arise if they are required to pay the gate fee upfront, but their clients fail to repay them in time.

("EPD") and FEHD will, based on complaints and reports on non-compliance, conduct surveillance and enforcement actions at different premises. Fixed penalty tickets at \$1,500 each will be issued to offenders intercepted on the spots, and prosecution by way of summons will be taken against serious and repeated offenders.

The Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018

9. The Bill was published in the Gazette on 2 November 2018 and received its First Reading at the Council meeting of 14 November 2018. It seeks to amend the Waste Disposal Ordinance (Cap. 354) and Waste Disposal (Refuse Transfer Station) Regulation (Cap. 354M) to establish a charging scheme for MSW disposal; to make a related amendment to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Cap. 354N);⁶ and to provide for related matters.

Major views and concerns expressed by Members

10. The Panel on Environmental Affairs ("EA Panel") discussed MSW charging with the Administration and SDC at various meetings since January 2011, and received public views on the subject in December 2013 and May 2017. The Establishment Subcommittee and Finance Committee also discussed related issues when they considered a staffing proposal for the implementation of MSW charging in June and November 2015 respectively. The major views and concerns expressed by Members are summarized in the ensuing paragraphs.

Incentives for waste reduction

11. Members generally supported in principle the introduction of quantity-based waste charging in Hong Kong for waste reduction. Some members suggested that the Administration should adopt a carrot-and-stick approach in which, in tandem with the implementation of MSW charging, rewards would be given to individual households based on the amounts of waste reduced or recyclables recovered.

12. The Administration responded that as the charge payable by a waste producer would be proportional to the quantity of waste he/she would dispose of

⁶ The purpose of the amendment is to empower the Secretary for the Environment to revise construction waste charges and set them at above cost recovery level in order to address the interface issues between MSW charge and construction waste charges as appropriate.

under the proposed charging modes, waste producers would be financially incentivized to reduce waste. The provision of financial rewards based on the amount of waste reduced did not accord with the "polluter pays" principle, and an incentive scheme based on the amount of recyclables recovered might inadvertently encourage consumers to purchase disposable products. Nevertheless, to promote recycling, various Community Recycling Centres and Community Green Stations had been distributing and would continue to distribute gifts and souvenirs to members of the public for the recyclables they brought to these facilities.

Enhanced support for waste reduction and recycling

13. Members generally welcomed the Administration's plan to provide additional recurrent resources for strengthening work on waste reduction and recycling to complement the implementation of MSW charging,⁷ and sought elaboration on the uses of such additional resources. Some Members urged the Administration to plough back the revenue from MSW charging into waste reduction/recycling measures.

14. The Administration advised that the waste reduction and recycling work to be supported by the additional resources would include:

- (a) setting up outreaching teams across the territory to provide on-site assistance to the community, in particular residents in old districts with a large number of single-block buildings;
- (b) regularizing the funding support for Community Recycling Centres, which were currently funded by the Environment and Conservation Fund ("ECF") on a time-limited basis;
- (c) providing free territory-wide collection services in respect of waste plastics from non-C&I sources and food waste from all sectors, subject to the outcome of the pilot schemes to be implemented; and
- (d) implementing a pilot scheme to assess the effectiveness of applying reverse vending machines in promoting the recovery of plastic beverage containers.

⁷ As announced in the Chief Executive's 2018 Policy Address, to complement the implementation of MSW charging, the Government will provide an additional provision of around \$300-400 million for the 2019-2020 financial year to start with, which will be further increased from the financial year when the MSW charging is to be implemented. The amount of this annual provision will be commensurate with the estimated gross revenue to be generated from MSW charging.

Compliance facilitation and enforcement

15. Members expressed concerns that the implementation of MSW charging might aggravate fly-tipping and give rise to charge evasion as well as abuse of litter containers in public places. They enquired how the Administration would overcome the possible difficulties in taking enforcement actions against offenders, while striking a balance between monitoring compliance and privacy protection.

16. The Administration advised that to deter fly-tipping, more internet protocol cameras would be installed at black spots at public places, and surveillance cameras with smart technology would be progressively introduced under the "Multi-functional Smart Lampposts" pilot scheme. The Administration was also exploring the application of other technologies, such as installation of global positioning system on refuse collection vehicles, to track and/or deter disposal of non-compliant MSW. While conducting regular inspection in individual buildings would induce an excessive demand on the enforcement manpower and might be seen as causing unnecessary privacy intrusion, the Administration would draw up a list of black spots based on the intelligence and complaints received from the public and property management companies after obtaining the agreement of relevant residents' organizations/property management companies. Besides, mobile applications could be developed for members of the public to report non-compliant cases.

Payment arrangements for gate fee

17. Some Members opined that the hybrid registration system proposed by the Administration was inadequate in addressing the concerns of small PWCs who had less bargaining power than their clients and might be forced to pay the gate fee upfront for the clients, which could result in potential cash flow and bad debt problems. They suggested that all waste producers serviced by PWCs using refuse collection vehicles without compactors should be required to register as account holders for paying the gate fee.

18. The Administration advised that it had considered the option suggested by Members, but representatives from the relevant trades generally preferred a hybrid system to allow greater flexibility in respect of the payment of gate fee. The proposed hybrid registration system would be similar to the existing payment arrangements under the Construction Waste Disposal Charging Scheme.

Offsetting waste charge by corresponding reduction in government rates

19. Some Members considered that charges for waste collection had already been included in government rates and so the rates should be reduced concurrently with the implementation of MSW charging. At the meeting on 18 December 2012, EA Panel passed three motions which respectively demanded that, if the Administration was to introduce quantity-based waste charging: (a) the rates should be lowered concurrently to avoid double charging; (b) a phased and progressive charging approach should be adopted and a "free of charge" policy should be adopted in the first phase; and (c) the charging should be based on the "revenue-neutral" principle, and the charges so collected should be rebated to those users who had succeeded in reducing waste.

20. The Administration responded that government rates were an indirect tax based on the rateable value of properties, and were unrelated to the quantity of waste disposed of from the properties, or to government expenditures on waste collection and disposal. The proposed MSW charge, which was set at a level generally acceptable to the public, could not recover the full costs of providing waste collection and disposal services.

Council questions

21. At the Council meetings of 21 March 2012, 4 June 2014, 21 June 2017 and 12 July 2017, Hon Vincent FANG, Hon CHAN Hak-kan, Ir Dr Hon LO Wai-kwok and Hon Frankie YICK asked questions relating to MSW charging respectively. The questions and the Administration's replies are hyperlinked in the **Appendix**.

Latest developments

22. At the House Committee meeting on 16 November 2018, Members agreed to form a Bills Committee to study the Bill.

Relevant papers

23. A list of relevant papers is set out in the **Appendix**.

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

List of relevant papers

Date	Event	Paper
24 January 2011	Meeting of the Panel on Environmental Affairs ("EA Panel")	Legislative Council Brief on "Update on the progress of the key initiatives in the 'Policy Framework for the Management of Municipal Solid Waste (2005-2014)'" issued by the Environment Bureau/Environmental Protection Department on 4 January 2011 (File Ref: EP 86/03/175A) Minutes of meeting (LC Paper No. CB(1)1509/10-11)
19 January 2012	Meeting of EA Panel	Consultation Document on "Strengthening Waste Reduction: Is Waste Charging an Option?" provided by the Administration (LC Paper No. CB(1)819/11-12(01)) Administration's paper on "Public Consultation on Municipal Solid Waste Charging" (LC Paper No. CB(1)855/11-12(05)) Minutes of meeting (LC Paper No. CB(1)1219/11-12)
18 December 2012	Meeting of EA Panel	Administration's paper on "Waste reduction through municipal solid waste charging: way forward" (LC Paper No. CB(1)276/12-13(01)) Minutes of meeting (LC Paper No. CB(1)568/12-13)
25 November 2013	Meeting of EA Panel	Administration's paper on "Council for Sustainable Development's Public Engagement on Municipal Solid Waste Charging – 'Waste Reduction by Waste Charging. How to Implement?'"

Date	Event	Paper
		<p>(LC Paper No. CB(1)314/13-14(03))</p> <p>Minutes of meeting (LC Paper No. CB(1)772/13-14)</p> <p>Administration's follow-up paper (LC Paper No. CB(1)591/13-14(01))</p>
16 December 2013	Special meeting of EA Panel	Minutes of meeting (LC Paper No. CB(1)1103/13-14)
25 February 2015	Meeting of EA Panel	<p>Administration's paper on "Framework proposal for implementation of municipal solid waste charging" (LC Paper No. CB(1)560/14-15(08))</p> <p>Minutes of meeting (LC Paper No. CB(1)726/14-15)</p>
23 June 2015	Meeting of the Establishment Subcommittee	<p>Administration's paper on "Proposed creation of two supernumerary posts of one Administrative Officer Staff Grade B (D3) and one Administrative Officer Staff Grade C (D2) in the Environmental Protection Department for three years with immediate effect upon approval by the Finance Committee to lead a new Waste Management (Special Duties) Division" (EC(2015-16)3)</p> <p>Minutes of meeting (LC Paper No. ESC110/14-15)</p>
20 November 2015	Meetings of the Finance Committee	Minutes of meetings (LC Paper No. FC163/15-16) (LC Paper No. FC164/15-16)
27 March 2017	Meeting of EA Panel	<p>Administration's paper on "Implementation arrangements for municipal solid waste charging" (LC Paper No. CB(1)697/16-17(01))</p> <p>Minutes of meeting (LC Paper No. CB(1)1268/16-17)</p>

Date	Event	Paper
29 May 2017	Special meeting of EA Panel	<p>Minutes of meeting (LC Paper No. CB(1)617/17-18)</p> <p>Administration's follow-up paper (LC Paper No. CB(1)1347/16-17(02))</p>
30 October 2017	Meeting of EA Panel	<p>Administration's paper on "Implementation of municipal solid waste charging" (LC Paper No. CB(1)126/17-18(02))</p> <p>Minutes of meeting (LC Paper No. CB(1)399/17-18)</p> <p>Administration's follow-up paper (LC Paper No. CB(1)357/17-18(02))</p>
22 October 2018	Policy briefing for EA Panel	<p>Administration's paper on "2018 Policy Address - Policy initiatives of Environment Bureau: Environmental protection" (LC Paper No. CB(1)10/18-19(01))</p>
14 November 2018	The Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 was introduced into the Legislative Council	<p>The Bill</p> <p>Legislative Council Brief (File Ref: EP CR/9/65/3)</p> <p>Legal Service Division Report (LC Paper No. LS13/18-19)</p>
26 November 2018	Meeting of EA Panel	<p>Legislative Council Brief (File Ref: EP CR/9/65/3)</p>

Hyperlinks to relevant documents:

Organization	Document
Environment Bureau	Hong Kong Blueprint for Sustainable Use of Resources 2013-2022
Council for Sustainable Development	Invitation for Response Document entitled "Waste Reduction by Waste Charging · How to Implement?" Report on the Public Engagement Process on Municipal Solid Waste Charging

Hyperlinks to relevant Council Questions:

Date	Council Question
21 March 2012	Press release on Council question (written) raised by Hon Vincent FANG
4 June 2014	Press release on Council question (written) raised by Hon CHAN Hak-kan
21 June 2017	Press release on Council question (oral) raised by Ir Dr Hon LO Wai-kwok
12 July 2017	Press release on Council question (written) raised by Hon Frankie YICK