

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

**List of follow-up actions arising from the discussion
at the meeting on 15 April 2019**

This note sets out our response regarding the follow-up actions arising from the discussion at the meeting of the Bills Committee held on 15 April 2019.

- (a) *provide information on statutory provisions (i) similar to the proposed section 20L(1) of the Waste Disposal Ordinance (Cap. 354), under which a "waste collection officer" as defined in the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 ("the Bill") (i.e. a person who is employed by the Government etc.) who is acting in the course of providing removal services at a refuse collection point ("RCP") or by a waste vehicle ("WV") would not commit an offence if the person deposits non-compliant waste ("NCW") at RCP or onto WV, whereas another person not employed by the Government but acting in the same way would commit an offence; and (ii) particularly, providing for similar differential treatment for Government employees and non-Government employees due to possible disciplinary action with more serious implications for Government employees, and provide examples of related past cases;*

Currently, removal services at a refuse collection point or by a waste vehicle are provided by several parties including "waste collection officers" (i.e. waste collection officers employed by the Government such as the Food and Environmental Hygiene Department (FEHD) staff), persons on behalf of FEHD (i.e. outsourced staff), and private waste collectors. The proposed section 20L serves to prohibit the latter two parties from depositing non-compliant waste (NCW) at these municipal solid waste (MSW) reception points. As stated in paragraph 24 of our reply to the Assistant Legal Adviser dated 13 February 2019, if a "waste collection officer" is reported to have committed the same act, he or she will already be subject to disciplinary actions which might have more serious implications. As such, we do not consider it necessary to subject them to this offence. Given the unique circumstances surrounding the requirements imposed on the parties involved in the provision of waste collection services, we do not have any available information on other situations that provide similar arrangements.

- (b) regarding some members' concern that people who take part in voluntary waste removal activities (such as coastal clean-up activities) but not use designated bags would inadvertently commit offences under the Bill (if it is passed), explain (i) how the Administration would promote the continuation of such voluntary activities after the implementation of the proposed municipal solid waste ("MSW") charging scheme; and (ii) what related volunteers would be expected to do in order to avoid the commission of offences under the Bill;***

At present, for clean-up activities organised or participated by Government departments or held at venues managed by Government departments, the relevant departments generally provide the required equipment, including garbage bags, for volunteers taking part in such activities. Under the Bill, the Director for Environmental Protection (DEP) may supply designated bags (DBs) or designated labels (DLs) for free. Having regard to the nature of the events, the need to upkeep the “polluters-pay” principle, and other relevant factors, the DEP may supply DBs or DLs for free to any person or organisation as necessary for the volunteers to help collect the refuse in future after the implementation of MSW charging.

- (c) explain whether the Administration will consider introducing the following amendments to the Bill to enhance the protection of property management companies ("PMCs") and frontline cleaning workers who provide waste collection/removal services in buildings: (i) adding a defence clause to the effect that PMCs/frontline cleaning workers would not commit an offence related to the depositing or delivery of NCW if they have maintained documentation to prove that the NCW concerned has first been deposited in the premises by another party, and (ii) providing that PMCs will have the right to recover from a waste producer any loss or expenditure suffered when handling NCW deposited in the premises by the waste producer; and if the Administration will not consider the above, the reasons for that;***

Under the Bill, if a cleansing worker collecting MSW from a premises identifies NCW disposed of in a common area of that premise that is used for depositing waste pending for removal from that premise for disposal (common area for waste), he or she could continue to handle such NCW without committing an offence under the proposed section 20P(1) by virtue of the exemption under the proposed section 20P(3)(c). The cleansing worker is not required to prove that the NCW concerned was deposited by another party before handling it.

On the other hand, it should be noted that cleansing workers are prohibited from depositing, or causing or permitting to be deposited, NCW onto a waste vehicle under the proposed section 20L. However, statutory defences are already provided under the proposed section 20Q, so long as they can prove that have taken reasonable precautions and exercised due diligence, such as informing their employers/supervisors, or the management offices of the premises to rectify the problem if NCW is identified, and they should be able to rely on the statutory defences as provided under the proposed section 20Q. It is therefore considered that an additional defence is not required.

As regards potential expenditure involved in relation to the handling of NCW upon the implementation of MSW charging, it would be subject to the mutual agreement between property management companies (PMCs) and households to decide how best to settle such expenditure so as to comply with the requirements on handling MSW under the Bill. That said, it should be noted that the policy intent of the proposed MSW charging framework is that it is primarily the responsibility of individual households to bear the charges for DBs and DLs, so as to achieve the legislative purpose of driving behavior changes in order to achieve waste reduction. It should also be noted that under the Bill, it will be offence for a person to deposit a NCW in common area for waste.

- (d) regarding the pilot outreaching services in the Eastern District, Kwun Tong and Sha Tin, (i) elaborate on the progress of the outreaching teams in establishing a direct communication network with various stakeholders and (ii) provide the value-for-money indicators for assessing the work of the outreaching teams;***

To strengthen on-site support to recycling at community level, the Environmental Protection Department (EPD) has been establishing new outreaching teams to collaborate closely with community partners to educate the public on the importance of waste reduction at source, assist them to practise proper waste separation at source and clean recycling, as well as to identify proper outlets for recyclables. At the same time, the outreaching teams will also promote EPD's various waste reduction and recycling initiatives such as the producer responsibility scheme on waste electrical and electronic equipment, the producer responsibility scheme on glass beverage containers and the proposed MSW charging, so as to raise public awareness and participation, and enhance stakeholders' understanding on the implementation details. The outreaching teams will strive to establish and maintain a direct communication network with different stakeholders such as PMCs,

cleansing workers, residents' organisations, District Council (DC) members and community representatives, etc. to render continuous support on promotion of waste reduction and recycling.

Having consulted the relevant DCs in October and November 2018, the outreaching teams kick-started outreaching service in three pilot districts (i.e. Eastern, Kwun Tong and Sha Tin districts) in December 2018. To solicit the support of key stakeholders for the outreaching service, the outreaching teams have engaged the Housing Department, the Hong Kong Housing Society, as well as the relevant associations of the property management trade to introduce the outreaching service and explore collaborative efforts for further promoting waste reduction and clean recycling.

With around 30 non-directorate civil service posts being gradually filled, we are at the initial stage of ramping up our outreaching service. As at mid-April 2019, the outreaching teams have conducted about 1 200 visits to around 860 building blocks in public and private housing estates as well as about 200 single block buildings and three villages, covering about 32% of the population in the three districts. The outreaching teams have attended meetings with the owners corporations, PMCs and residents/villages' representatives, listened to and discussed with them on their recycling needs and suggestions; assessed the effectiveness of the waste reduction measures and recycling facilities of the concerned estates, buildings and villages; offered recommendations for enhancements (e.g. joining EPD's waste reduction and recycling schemes, increasing the number of recycling bins, identifying outlets for recyclables, etc.); and coordinated with Community Green Stations and/or Community Recycling Centres on recyclables collection services, etc. Moreover, the outreaching teams have carried out over 70 education and promotional activities of different forms, including on-site demonstration/ booths to promote the proper use of recycling bins and clean recycling, displays of EPD's waste reduction and recycling initiatives/schemes including MSW charging, training on clean recycling for frontline staff of PMCs and cleansing contractors, etc. The education and promotional activities have attracted about 7 800 participants.

Subject to smooth establishment of the outreaching teams to a full strength of about 200 staff gradually by end 2019/early 2020, we plan to expand the outreaching service to the whole territory in Hong Kong by year 2020, with a target to complete about 50,000 visits to public and private housing estates and residential buildings by end of 2020.

- (e) *provide recent statistics on prosecutions against illegal dumping of construction and demolition waste to demonstrate the effectiveness of the Environmental Protection Department ("EPD")'s enhanced enforcement efforts;*

In order to step up efforts in combating illegal disposal of waste, EPD has been progressively installing surveillance camera systems at black spots of illegal construction waste disposal to facilitate enforcement and enhance the deterrent effect against illegal disposal of construction waste. Such arrangements help provide intelligence for planning targeted ambush actions and collating evidence to initiate prosecution against offenders.

The number of successful prosecutions against illegal disposal of construction waste handled by EPD under the Waste Disposal Ordinance (Cap. 354) increased by around 22% from 106 in 2017 to 136 in 2018. As for cases involving all waste types, the total number of successful prosecutions increased by around 12% from 371 in 2017 to 421 in 2018.

For detailed statistics, including the number of successful prosecution cases arising from surveillance camera systems, please refer to the following table:

Year	2017		2018	
	All waste	Construction waste	All waste	Construction waste
No. of prosecutions/ Types of waste				
(a) No. of successful prosecutions by summonses	194 (48)	83 (14)	175 (78)	84 (17)
(b) No. of Fixed Penalty Notices issued	177 (69)	23 (7)	246 (108)	52 (8)
(c) No. of successful prosecutions [(a) + (b)]	371 (117)	106 (21)	421 (186)	136 (25)

Note: Bracketed figures refer to successful prosecution cases arising from surveillance camera systems.

As a result of the above enhanced enforcement efforts, the amount of construction waste illegally deposited in public places and on Government lands cleared by the Government has been significantly reduced by 45% from 8,998 tonnes in 2017 to 4,964 tonnes in 2018.

This illustrates that installation of surveillance camera systems and stepped-up enforcement are effective in reducing illegal disposal of construction waste.

- (f) *explain why the Food and Environmental Hygiene Department ("FEHD") is planning to install its own surveillance camera system near RCP at Tai Shui Hang Village (which is a fly-tipping black spot), even though EPD has already installed a surveillance camera system at the same location;*

To be provided later.

- (g) *further to the actual numbers of cleaning workers employed by FEHD and its contractors with a breakdown by districts provided in LC Paper No. CB(1)875/18-19(02), and for comparison purposes, elaborate on the estimated number of people currently employed for the collection of recyclables with breakdowns (i) by collection channels (e.g. projects/collection points under the Community Recycling Network, the Government's contracts for collection of recyclables from recycling bins at public places, etc.) and (ii) by districts; and*

To be provided later.

- (h) *clarify whether the proposed MSW charging scheme has already been mentioned in any tender documents for the Government's waste collection service contracts, and if so, how the Government will assist prospective tenderers in calculating the cost implications of the proposed MSW charging scheme.*

Since March 2018, FEHD has added a new clause to the tender documents of its cleansing services that, upon the implementation of MSW charging as announced by the Government, the contractor shall use the type of new plastic bags, including material, colour, size and marking, as approved by the Government.

Currently, cleansing service contractors of different government departments have to provide the garbage bags that have been priced in the existing contracts and they are aware of the quantities of garbage bags required to provide the necessary cleansing services. For new contracts to be tendered in future, the tenderer will have to take into account the proposed MSW charging mechanism, the relevant charging levels and the target implementation date. The related additional

expenses will be covered on a reimbursement basis and in line with the “polluter-pays” principle.