

# 立法會 *Legislative Council*

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## **Paper for the House Committee meeting on 10 July 2020**

### **Report of the Bills Committee on Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018**

#### **Purpose**

This paper reports on the deliberations of the Bills Committee on Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 ("the Bills Committee") and its decision to discontinue its work.

#### **Background**

##### Need for municipal solid waste charging

2. Municipal solid waste ("MSW") comprises domestic, commercial and industrial waste, and excludes construction and demolition ("C&D") waste, chemical waste and clinical waste. As the need to reduce waste disposal has become more imminent and acute amidst the increasing amount of waste being disposed of at the landfills in recent years, and having regard to extensive support received from the public consultation concluded in 2012, the Administration aims to introduce an MSW charging scheme to create financial incentives to drive behavioural changes in waste generation and hence reduce overall waste disposal.

##### Proposed municipal solid waste charging framework

3. The Administration engaged the Council for Sustainable Development ("SDC") for an extensive public engagement exercise in 2013. Based on the implementation framework proposed by SDC in 2014 and having regard to the views from different stakeholders subsequently, the Administration proposed the modified charging arrangements in October 2017. Premised on the "polluter-pays" principle and built upon the existing MSW collection and disposal system, MSW charges are proposed to be levied through the dual

modes of (a) charging by pre-paid designated bags/designated labels ("DBs/DLs") and (b) charging by weight-based "gate fee". The charging mode applicable to a waste producer will depend on the waste collection service used by him/her.

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

4. The Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 ("the Bill") was published in the Gazette on 2 November 2018 and received its First Reading at the Council meeting of 14 November 2018 to amend the Waste Disposal Ordinance (Cap. 354) ("WDO") and the Waste Disposal (Refuse Transfer Station) Regulation (Cap. 354M) to establish a charging scheme for MSW disposal ("the proposed charging scheme"); and to make related amendments to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Cap. 354N) and the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570); and to provide for related matters.

### **The Bills Committee**

5. At the House Committee meeting on 16 November 2018, Members agreed to form a bills committee to study the Bill. The membership list of the Bills Committee is in **Appendix I**. Under the chairmanship of Mr MA Fung-kwok, the Bills Committee has held 16 meetings to discuss with the Administration, including one meeting to receive views from deputations, 11 meetings to study the general merits and principles of the Bill, three meetings to conduct clause-by-clause examination and one meeting to discuss the way forward of the Bills Committee.

6. A list of the deputations/individuals which have provided views to the Bills Committee is in **Appendix II**.

7. While members support the policy direction of waste reduction, some hold different views about the effectiveness of the proposed charging scheme to attain its intended objectives at the present stage.<sup>1</sup> In particular, members question whether and how the proposed charging scheme can be enforced to tackle problems of fly-tipping and possible evasion of MSW charges, and the

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<sup>1</sup> As mentioned in paragraph 13 of this report, the Bills Committee decided to discontinue its scrutiny work on the Bill on 22 June 2020 and hence the Bill will lapse upon the end of the Sixth Legislative Council.

readiness/progress of complementary measures to support waste reduction and recycling in parallel. Some members have also raised concerns about the timing of introducing MSW charging having regard to the recent economic downturn.

### The Bills Committee's decision to discontinue its scrutiny work on the Bill

8. The Bills Committee started clause-by-clause examination of the Bill at the meeting on 20 May 2020 (i.e. the thirteenth meeting). With three meetings held since then and before 22 June 2020,<sup>2</sup> the Committee has examined up to clause 4, out of 37 clauses of the Bill.<sup>3</sup> Members raised various matters about the drafting aspects of the Bill and requested the Administration to consider clarifying/amending certain new definitions and offence clauses proposed under the Bill, with a view to ensuring their clarity and comprehensibility. Some members have also indicated their intention to propose amendments to the Bill for discussion by the Bills Committee.

9. On 9 June 2020, the Deputy Chairman wrote to the Chairman expressing concern about the Bills Committee's progress of scrutiny work and requesting the Chairman to consult members on the way forward of the Bills Committee.

10. Having reviewed the latest situation and in the light of members' concerns about the progress of scrutiny work of the Bills Committee, the Chairman directed that members' views be sought by way of circulation of paper on 11 June 2020 on whether they agreed that the Bills Committee should discontinue its scrutiny work on the Bill and report to the House Committee. By the specified deadline of 5:00 pm on 12 June 2020, a total of 21 members responded to the invitation, with 12 members signifying agreement while 9 members signifying disagreement.

11. According to paragraph 4.27 of the Handbook for Chairmen of Bills Committees, a matter considered by circulation of papers to members will be deemed to be approved by the Bills Committee, if a majority of the members of the Bills Committee have signified approval, and no member has signified disapproval or has requested that the matter should be discussed at a meeting. In the light of the above consultation results, the Chairman instructed that the Bills Committee discuss its way forward at the meeting on 22 June 2020.

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<sup>2</sup> The Bills Committee decided to discontinue its scrutiny work on the Bill at the meeting on 22 June 2020.

<sup>3</sup> Clauses 1 to 4 cover certain new definitions proposed to be added to WDO and new offences related to the proposed charging scheme, etc.

12. At the meeting on 22 June 2020, members noted that if the Bill was to resume its Second Reading debate before prorogation of the Sixth Legislative Council ("LegCo") and at the Council meeting of 15 July 2020 the latest, the Bills Committee should report to the House Committee on or before 3 July 2020. While some members present at the meeting took the view that the Bills Committee should endeavour to complete the scrutiny of the Bill by expediting its work as far as possible, some other members present expressed strong reservation on the feasibility of completing scrutiny of the entire Bill under a tight timeframe. After discussion, the Bills Committee decided by a majority of the members voting to discontinue its scrutiny work on the Bill and report this decision to the House Committee. The Bills Committee has invited the Administration to prudently consider members' views raised during past deliberations.

### **Deliberations of the Bills Committee**

13. The main subjects deliberated by the Bills Committee are set out below:

- (a) charging mechanism (paragraphs 14 – 46);
- (b) issues relating to waste collection (paragraphs 47 – 53);
- (c) designated bags and designated labels (paragraphs 54 – 61);
- (d) implementation strategy (paragraphs 62 – 67);
- (e) enforcement (paragraphs 68 – 102); and
- (f) assessment of the effectiveness of the proposed charging scheme (paragraphs 103 – 104).

### Charging mechanism

#### *Definition of "municipal solid waste"*

14. The Bills Committee has sought clarification on whether it is the policy intent that the term MSW as defined under the Bill may include municipal waste in semi-solid or purely liquid form; and if so, why MSW is not (a) referred to as "municipal waste" (i.e. omitting the word "solid") in the Bill or (b) expressly defined to include semi-solid and liquid forms for the avoidance of doubt.

15. The Administration has advised that it is the policy intention that MSW in different forms, including semi-solid and liquid forms, be subject to MSW charging. This policy intention is reflected in the definition of MSW in the Bill, i.e. any waste except chemical waste, clinical waste and construction waste. Waste is also defined under section 2 of the existing WDO as "any substance or article which is abandoned and includes animal waste, chemical waste, clinical waste, construction waste, household waste, livestock waste, street waste and trade waste". The Administration has also pointed out that as a common nomenclature used in different jurisdictions, the term MSW is not confined to MSW in solid form but MSW in different forms. It is therefore not considered necessary to remove the word "solid" from the term or expressly define MSW to include semi-solid and liquid forms under the Bill.

*Charging by designated bags and designated labels*

16. The Bills Committee has noted that under the proposed charging scheme, for MSW collected by the Food and Environmental Hygiene Department ("FEHD") through waste vehicles, refuse collection points ("RCPs") and specified bins as well as MSW collected by private waste collectors ("PWCs") using waste vehicles with rear compactors, charging will be imposed through requiring the use of DBs or DLs for oversized waste depending on the waste collection arrangements. The MSW will have to be properly wrapped in DBs before disposal onto waste vehicles,<sup>4</sup> at RCPs and into specified bins as well as at the waste reception chambers or areas on individual floors of multi-storey buildings. MSW that is neither wrapped in a DB nor has a DL attached to it and disposed of at the above locations will be regarded as non-compliant waste ("NCW"). The mode of charging by DBs/DLs is applicable to most residential buildings, village houses, street-level shops, and institutional premises, accounting for some 80% of the daily MSW disposed of at landfills.

17. Having considered relevant factors including affordability, public acceptability and effectiveness in driving behavioural changes, etc., the per-litre charge for DBs is proposed to be set at \$0.11 for the first three years of implementation. At this charging level, if a three-member household uses the most common DB of 10 or 15 litres for daily disposal of MSW, it will have to pay respectively around \$1.1 or \$1.7 per day (i.e. \$33 or \$51 per month). The DBs will be of nine different sizes from 3-litre up to 100-litre to cater for the

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<sup>4</sup> Please refer to paragraph 23 of this report for definition of "wrapped in a designated bag".

need of different users.<sup>5</sup> The requirements for DBs and DLs and amendments to the MSW charges, if any, will be specified by way of a notice published in the Gazette, which will be subject to the negative vetting procedure.

18. To facilitate monitoring and having regard to environmental protection considerations such as contribution to waste reduction and carbon saving, the Administration has proposed to outsource the manufacturing of DBs locally as far as practicable, while a separate contractor will be engaged as the manufacturing, inventory and distribution coordinator for DBs and DLs. Making reference to the distribution network adopted in other cities, the Administration intends to establish some 4 000 sales points at supermarkets, convenience stores, gas stations and post offices, etc. In addition, some vending machines will be set up in rural areas and RCPs.

19. According to the Administration, for oversized waste collected by FEHD that cannot be wrapped into a DB, charging will be imposed through requiring the oversized waste to be affixed with a DL before disposal. A uniform rate of \$11 per piece will be charged, which is estimated with reference to the price for the largest size of DB of 100 litres for waste producers. The manufacturing, inventory and distribution arrangements for DBs will be applicable to DLs.

20. The Bills Committee has requested the Administration to ensure that DBs will be durable enough to prevent damage during normal handling and transportation, so as to minimize compliance burden on frontline cleaning workers. The Administration has advised that it has been keeping in view the use of garbage bags designated for similar MSW charging schemes in other jurisdictions, including the designs and qualities 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 have improved over the years. Participants generally gave positive feedback on the materials used in and durability of the dummy bags. The Administration will continue to explore ways to improve the designs and specifications of dummy bags, so as to better meet users' needs.

21. The Bills Committee has enquired whether a DL will be required for each dismantled part of the same abandoned furniture under the proposed charging scheme (for instance, whether a person will commit an offence under the proposed section 20K(1) for depositing at an RCP different dismantled parts

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<sup>5</sup> 3-litre, 5-litre, 10-litre, 15-litre, 20-litre, 35-litre, 50-litre, 75-litre and 100-litre. There are also 240-litre and 660-litre DBs which will only be sold for use by buildings with refuse chutes such that frontline cleaning workers will not have to unnecessarily put NCW collected at the bottom of the refuse chutes into DBs for further disposal.

of the same abandoned furniture firmly tied together by a rope which is attached with one DL;<sup>6</sup> or a table and some chairs firmly tied together with one DL attached). Some members have requested the Administration to consider specifying in the Bill the conditions under which the use of only one DL will be deemed to be in compliance with the proposed charging scheme. The Bills Committee has also sought clarification on whether the disposal without DLs of furniture items damaged by a flood while the traffic conditions forbid the purchase of DLs will be handled with discretion.

22. The Administration has advised that while it will be impracticable to prescribe the individual circumstances and criteria for defining what constitutes a piece of MSW for the purpose of determining the number of DLs required, references will be made to such factors as the structure, function, design, overall size and quantity of the waste in question in determining whether the MSW should be considered as one or several articles. For instance, subject to the actual facts and circumstances, the dismantled parts of the same abandoned furniture firmly tied together by a rope is likely to be regarded as one article of waste requiring one DL for disposal, whereas a table and some chairs are likely to be regarded as separate articles, each requiring a DL for disposal. Frontline enforcement staff will take into account facts and circumstances of a given case in considering the need for taking enforcement actions, and guidelines and training will be provided for them beforehand. The Administration also points out that the proposed section 20Q(1)(c) of WDO seeks to provide for a defence to NCW-related offences to cater for emergency situations.

*Definition of "wrapped in a designated bag"*

23. "Wrapped in a DB" is defined under the Bill as "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" (令固體內載物不能在處理和運輸過程中，從該袋掉出). The term is related to the proposed offences under the proposed sections 20K, 20L, 20M, 20N, 20O and 20P of WDO ("the six

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<sup>6</sup> Proposed offences related to depositing/delivery of waste are provided by the proposed sections 20K, 20L, 20M, 20N, 20O and 20P of WDO. The proposed sections 20K and 20P seek to prohibit depositing of NCW (a) at an RCP, (b) onto a waste vehicle, (c) into a specified bin, and (d) in a common area of any premises that is used for depositing waste pending removal from the premises for disposal ("common area for waste"), whereas the proposed section 20M seeks to prohibit delivery of NCW to removal service providers. The proposed section 20L mainly concerns 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. The proposed sections 20N and 20O concern the prohibition of depositing/delivery of labelled MSW without DBs onto private waste vehicles. Issues related to the proposed offences will be discussed under paragraphs 74 to 93 of this report.

proposed sections"). The Bills Committee has enquired whether any of the following scenarios will render MSW falling outside the proposed definition of "wrapped in a DB":

- (a) there is a small gap in the tied opening of the DB;
- (b) there is a small hole on the body of the DB;
- (c) an object perforates and protrudes from the DB; and/or
- (d) liquid content escapes from the DB during its transportation.

24. Some members have raised concern about possibly inadvertent commission of related proposed offences by a frontline cleaning worker if a DB has a design or manufacturing defect or is damaged in the course of its handling or transportation, resulting in the escape of its solid contents. Besides, clause 6 of the Bill seeks to amend section 31 of WDO to the effect that the prosecution will not need to prove that the defendant's acts or omissions in question are accompanied by any intention, knowledge or negligence as to any element of the new offences provided by the six proposed sections. These members therefore consider that, as far as waste producers' responsibility is concerned, the proposed definition of "wrapped in a DB" should preferably be narrowed by removing the part "so that no solid contents can escape from the bag during handling and transportation".

25. The Administration has explained that as long as the conditions stated in the proposed definition are fulfilled, none of the scenarios mentioned in paragraph 23 above will render the MSW concerned falling outside the proposed definition. In general, a frontline cleaning worker charged with an offence relating to depositing of NCW can rely on statutory exemptions or defences proposed under the Bill.

26. The Administration has further advised that:

- (a) the policy intent of defining "wrapped in a DB" in the way proposed is to prevent the mixing of individual waste items and untied DBs in refuse collection facilities after the implementation of the proposed charging scheme, which will make it very difficult to assess compliance situation and identify offenders;
- (b) the part of the sentence in question seeks to clarify the meaning of "completely contained in a DB with the bag's opening tied" and to avoid possible misunderstanding, if any;



- (c) if at the moment of depositing MSW, the MSW is within the proposed definition of "wrapped in a DB", the person depositing the MSW will unlikely commit an offence under the proposed section 20K or 20P even if the DB is damaged (causing the MSW concerned falling outside the proposed definition) subsequently during its handling and transportation by another person; and
- (d) some of the proposed offences under the six proposed sections do not apply to persons involved in the provision of removal services. In other words, even if circumstances during MSW's handling and transportation render the MSW falling within the definition of NCW, the person involved in the MSW's handling and/or transportation will not necessarily commit an offence relating to depositing/delivery of NCW under the relevant proposed sections.

27. At the request of the Bills Committee, the Administration has undertaken to consider reviewing the definition of "wrapped in a DB" to address members' concerns.

#### *Charging by gate fee*

28. The Bills Committee has noted that, according to the Administration, for the daily MSW collected by PWCs using waste vehicles without compactors, a "gate fee" will be charged based on the weight of MSW disposed of at the waste disposal facilities, i.e. refuse transfer stations ("RTSs") or landfills.<sup>7</sup> Such MSW will comprise largely oversized waste or waste which is irregular in shape generated from commercial and industrial ("C&I") premises, e.g. large-sized metal ware and wood panels, etc., that can hardly be put into a DB.

29. The Bills Committee has enquired how the proposed MSW charge is to be levied in buildings with mixed uses, such as revitalized industrial buildings with residential uses; and whether the tenants of hotel-like service apartments will need to pay the proposed MSW charge if the rental already includes the service charge for waste disposal.

30. The Administration has explained that under the proposed charging scheme, the charging mode applicable to a waste producer will depend on how the MSW he/she generated will be collected. If the building is serviced by FEHD or a PWC using waste vehicles with rear compactors, then the occupiers

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<sup>7</sup> For details of the gate fees, please refer to paragraphs 9 to 11 of the Legislative Council Brief on Waste Disposal (Charging For Municipal Solid Waste) (Amendment) Bill 2018 issued by the Environment Bureau/Environmental Protection Department on 31 October 2018 (File Ref:EP CR/9/65/3) ("LegCo Brief").

of the building will need to use DBs and/or DLs for MSW disposal. While disposal of litter at litter containers ("LCs") in public places will not be subject to the proposed charging scheme, members of the public (including tourists) are not encouraged to dispose of a large quantity of refuse at LCs.

### *Charging levels*

31. Some members consider that the proposed charging levels are generally acceptable to members of the public. Some other members, however, have expressed concern that the collection of MSW charge may be controversial under the prevailing economic downturn following the widespread social unrest in the second half of 2019 and outbreak of the coronavirus disease 2019. Some members have suggested the Administration to conduct an opinion poll to further gauge public acceptance of the proposed charging scheme before deciding the way forward. Besides, the Administration may utilize some of its fiscal surplus (instead of revenue from the proposed MSW charging) to support waste reduction and recycling work. Concerns have also been raised by some deputations that the proposed charging scheme may not align strictly with the "polluter-pays" principle. For instance, the charge for MSW generated by tourists will be borne by other parties.

32. The Administration has stressed that the introduction of MSW charging is meant to drive behavioural changes in reducing waste. Raising Government's revenue or recovering the costs incurred by the Government in providing waste collection and disposal service is not the primary consideration when setting the charging levels. The Administration also points out that there is general public support for the proposed implementation of quantity-based MSW charging that accords with the "polluter-pays" principle in pursuing waste reduction.

33. Some members have raised concerns about the proposed uniform rate charged for DLs regardless of the size or weight of the oversized waste. The charge may not be proportionate for disposal of light-weight household articles that cannot be wrapped into a DB. They have also asked the Administration to consider adjusting downward the price of DLs (proposed to be \$11 under the Bill) in view of the worsening economic conditions.

34. The Administration has advised that common households dispose of oversized waste only occasionally, and hence the cost implications arising from the use of DLs will be relatively insignificant. To reduce the amount of MSW charge to be paid, it is permissible that a household may consider breaking a large article into smaller pieces, which can then be wrapped into a DB. A uniform charging rate for oversized waste has the merit of being simple and easy to understand and administer. If the MSW charge to be imposed on oversized waste varies according to the size or weight of the article, the

arrangement may give rise to unnecessary compliance burden and complications.

35. The Bills Committee has enquired about the mechanism to review the MSW charging levels. There are concerns that the proposed charging levels of DBs/DLs and gate fee will be increased soon after the implementation of the proposed charging scheme if its expected outcomes are not adequately achieved.

36. The Administration has advised that the charging levels will be reviewed after the first three years of implementation of the proposed charging scheme, having regard to its effectiveness in reducing waste disposal and other relevant factors, including inflation rate, public affordability, effectiveness of the prevailing charging level in driving behavioural change, etc. The Administration points out that in the case of Taipei City, the charging levels under its MSW charging scheme have actually been reduced after years of implementation. While a downward adjustment to the charging levels is not precluded, the Administration does not consider it probable during the early years of implementation of the proposed charging scheme. If after the completion of the review the Administration considers that the charging levels should be adjusted, it will seek to introduce amendments to WDO and relevant regulations, and consult LegCo on the relevant proposals accordingly.

#### *Assistance for the needy*

37. the Administration considers that while the responsibility to reduce waste should be shared by the whole community and exemption from MSW charging is generally not recommended, the need of people with financial hardship should be addressed. The Administration intends to provide financial assistance for the recipients of the Comprehensive Social Security Assistance ("CSSA") Scheme in which currently over 60% CSSA recipients are living in public rental housing ("PRH") estates. Making reference to the estimated average spending of a three-member household in waste disposal (i.e. around \$33 per month or around \$10 per person per month if a 10-litre DB is used daily), the Administration plans to increase the CSSA standard rates by \$10 per person per month for all CSSA recipients upon the implementation of MSW charging.<sup>8</sup>

38. The Bills Committee has discussed the economic impact of the proposed charging scheme on people with financial hardship. As certain groups of people with special needs (such as the elderly and people suffering from chronic illnesses) may generate larger amount of unavoidable waste compared to the

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<sup>8</sup> The CSSA standard rates are adjusted annually in accordance with the Social Security Assistance Index of Prices.

general population, some members opine that the proposed increases of around \$10 per person per month to the CSSA standard rates will not be enough to mitigate the financial impact of the proposed charging scheme on those people. These members urge the Administration to consider granting exemption to recipients of various financial assistance schemes who have already undergone relevant financial tests; or providing DBs and DLs to those people free of charge.

39. Some other members consider that the Administration should expand the scope of financial assistance to all PRH households, or provide a basic amount of free DBs/DLs to those households each month, to help mitigate the financial impact of MSW charging on low-income families. There is also a view that the Administration should reduce government rates concurrently with the implementation of MSW charging to avoid "double charging", given that government rates have been a charge for municipal services including waste collection and disposal.

40. The Administration has advised that the outcome of the public engagement exercise conducted by SDC on the implementation framework of MSW charging has revealed that the needs of people with financial hardship should be addressed and hence the proposed financial assistance for CSSA recipients. More assistance will be offered to people with financial hardship through the outreaching efforts and collaboration with non-governmental organizations ("NGOs") as appropriate. As regards government rates, they now form part of the Government's general revenue without specific relevance to the provision of any municipal service.

41. The Administration has explained that the primary purpose of the proposed charging scheme is to create financial incentives to drive behavioural changes in waste generation and hence reduce overall waste disposal. SDC has taken into account the outcome of its public engagement exercise and recommended implementing MSW charging in all sectors in one go on fairness grounds. Providing exemption to specific groups of people will undermine the purpose and give rise to administrative/enforcement difficulties (as it will be difficult to verify the identity of a person who does not use DB/DL for MSW disposal), and may create a negative labelling effect on those people. The actual MSW charge payable by a CSSA recipient each month may be less than the proposed extra payment of \$10 if he/she takes steps to reduce waste disposal.

42. The Administration points out that under its current plan, a preparatory period of about 12 to 18 months will be put in place after the passage of the Bill. The Administration will decide the timing for the actual implementation of the scheme having regard to social conditions and other factors during the preparatory period.

*Government payment of the proposed municipal solid waste charge*

43. The Bills Committee has noted that the proposed MSW charge will not be payable by the Government pursuant to section 36(7) of WDO, but government bureaux/departments ("B/Ds") will voluntarily pay the proposed MSW charge on an administrative basis. The Bills Committee has enquired about the rationale for this arrangement. Some members consider that an amendment to WDO should be introduced to the effect that the Government will be obliged to pay the proposed MSW charge for the MSW it generates. There are also suggestions that each B/D should report the amount of MSW charge it will pay annually for public scrutiny; and to demonstrate the Administration's commitment to reducing its waste, it should set an annual limit on the MSW charge incurred by each B/D.

44. Taking note of members' suggestions, the Administration has advised that the B/Ds concerned will buy and use DBs/DLs as required under the law for the disposal of MSW through cleaning service contractors engaged, except in cases where certain MSW is generated as a direct and inevitable result of the delivery of public services (e.g. the concerned B/Ds have to handle such waste as agents of last resort such as collection of street waste by FEHD).

*Applicability of municipal solid waste charging to recyclables*

45. The Bills Committee has sought clarification on whether a person needs to wrap recyclables in a DB before depositing them into a recycling bin ("RB"), and whether the property management company ("PMC") concerned needs to ensure that all recyclables collected in the RB are wrapped in DB(s) before delivering them to another party, in order to avoid commission of an offence under the proposed charging scheme. Members have also asked the Administration to clarify whether recyclables collected locally by recyclers and subsequently disposed of at landfills will be subject to the proposed charging scheme.

46. The Administration has advised that some clauses in the Bill seek to provide that the depositing of NCW that is reasonably suitable for recycling into RBs will not be considered an offence, and hence the collection of recyclables will not be subject to the proposed charging scheme.<sup>9</sup> While the amount of

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<sup>9</sup> Regarding the definition of recyclables, the Administration has explained that broadly speaking, if there is a possible recycling or reuse outlet for a certain kind of material (such as used clothes), the material will be deemed to be reasonably suitable for recycling; and the Bill seeks to provide that if the materials that are reasonably suitable for recycling are deposited into a container, or in an area, that is reasonably used for depositing materials for recycling, then the materials in question will not be subject to the proposed charging scheme.

source-separated recyclables is expected to increase with the implementation of the proposed charging scheme, buildings and housing estates may consider streamlining the collection arrangements for recyclables and enhancing monitoring. If a recycler disposes of the recyclables he/she has collected, such recyclables, which will then be no different from MSW, may be subject to MSW charges.

### Issues relating to waste collection

#### *"Waste collection officer"*

47. Under the Bill, "waste collection officer" means a person who is employed by the Government and carries out the duty of loading MSW onto a waste vehicle or moving MSW at an RCP. The Bills Committee has requested the Administration to consider amending the definition of "waste collection officer" (廢物收集人員) to address the concern that it is possible that in the eyes of some members of the general public, the term as now drafted in the Bill may be construed as a generic term covering any worker who provides waste collection service.

48. The Administration has advised that according to the existing waste collection and delivery mode in Hong Kong, FEHD and PWCs provide waste removal services respectively. It is proposed to add the term "waste collection officer" to cater for the applicable scope of the proposed section 20L(1) of the Bill in relation to prohibiting a removal services provider from depositing NCW. Generally speaking, those who comply with the two conditions in the definition are FEHD employees responsible for collecting and removing MSW, for example, RCP attendants and waste vehicle loaders.

49. The Administration has pointed out that FEHD has a large number of employees and they are tasked to discharge different duties. In view of the applicable scope of the term, i.e. limited to those FEHD employees who are responsible for loading MSW onto a waste vehicle or moving MSW at a RCP, it is proposed to use the term "waste collection" which refers to the job nature in describing these employees. Besides, the term "officer" usually refers to a Government employee who is assigned to discharge certain duties in other legislation. For example, there are references to "an officer of the Environmental Protection Department" and "authorized officer" in WDO for several times. The term "officer" mainly serves to differentiate between FEHD employees and PWCs' employees.

#### *"Collection authority"*

50. The Administration has proposed a textual amendment to the definition of "collection authority" in section 2(1) of WDO under the Bill. In this

connection, the Administration has explained that "collection authority" means Director of Environmental Protection ("DEP") in relation to chemical waste and clinical waste; and Director of Food and Environmental Hygiene ("FEH") and DEP in relation to any other waste (including MSW).

51. Some members opine 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. Under the existing section 23A of WDO, "any public officer" may 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 are imposed or conferred by WDO. The Bills Committee has sought explanation whether "any public officer" under that section will include officers of the Housing Department.

52. The Administration has explained that in general, MSW in PRH estates is/will be collected and removed by FEHD or its contractors from the estates' central refuse chambers. If the Bill is passed, DEP will be empowered to take enforcement actions against depositing of NCW on individual floors of multi-storey buildings. The Administration plans to take such enforcement actions under a risk-based approach.

*"Public waste vehicle", "private waste vehicle" and "permitted vehicle"*

53. The Bills Committee has sought clarification on the definitions of "public waste vehicles", "private waste vehicles" and "permitted vehicles" under the Bill. As some of the signs currently exhibited on the waste vehicles of the contractors of FEHD appear to be inconspicuous or of varying formats, members have requested the Administration to ensure that the prescribed signs to be exhibited on waste vehicles will be conspicuous and uniform. The Administration has advised that:

- (a) any type of vehicle, with or without a compactor, will fall within the definition of "public waste vehicle" as long as it is used by FEHD or its contractors for removing MSW and disposing of it at a scheduled facility;
- (b) for premises whose MSW will be removed by PWCs not acting on behalf of the Director of FEH, should the premises choose to adopt charging by DBs after the implementation of the proposed charging scheme, the MSW will be removed by using "private waste vehicles", which meant a vehicle with a compactor, among other things, under the proposed definition in clause 3(3);

- (c) Division 4 of Part IVB proposed to be added to WDO seeks to provide for matters in relation to the prescribed signs to be displayed on public waste vehicles and private waste vehicles for identification purposes;
- (d) 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, will be provided for in subsidiary legislation to be made pursuant to the proposed section 20X of WDO;
- (e) vehicles without a compactor and used by PWCs for collecting MSW will not fall within the proposed definitions of "waste vehicle", "public waste vehicle" and "private waste vehicle"; and MSW collected by PWCs using such vehicles will be subject to charging by gate fees. Clauses 18 and 20 of the Bill seek to provide for the registration arrangement under which DEP may register such a vehicle as a "permitted vehicle" for a scheduled facility;<sup>10</sup> and
- (f) a vehicle used for collecting source-separated food waste (which is a kind of recyclable) and delivering it to an organic resources treatment facility will not fall within the proposed definition of a "waste vehicle" (i.e. public waste vehicle or private waste vehicle) under the Bill, and the food waste concerned will not be subject to the proposed MSW charging arrangements.

### Designated bags and designated labels

#### *Competition issues*

54. The Bills Committee has enquired whether any competition issues will arise in respect of the potential arrangement for sale of DBs at retail outlets in lieu of retailers' distribution of plastic shopping bags ("PSBs"), which are currently subject to environmental levy, and/or the sale of non-DBs.

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<sup>10</sup> The Administration has advised that 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 will contain information about the account-holder, the amount of gate fee payable, etc. It is envisaged that these registration arrangements can safeguard the interests of both account-holders and the Government, and ensure that only suitable vehicles will be permitted to use certain scheduled facilities.



55. The Administration has advised that under the proposed charging scheme, DB and DL for MSW disposal will be the key charging tools to impose MSW charges. DEP may sell or authorize any person to sell DBs and DLs. Separately, under the Plastic Shopping Bag Charging Scheme and pursuant to section 18A(1) and (2) of the Product Eco-responsibility Ordinance (Cap. 603), if there is a sale by retail of goods to a customer, the seller must charge the customer an amount of not less than 50 cents (as the PSB charge) for each PSB provided at the time of the sale or for promoting the goods or otherwise in connection with the sale. This is a levy imposed by the Product Eco-responsibility Ordinance but not a price at which sellers are "selling" PSBs. Having consulted the Competition Commission, the Administration considers that there is no "market" for the distribution of PSBs by supermarkets to individual shoppers. Payment of a levy does not mean that shoppers are "purchasing" a PSB. Hence in respect of the distribution of PSBs to shoppers, it should not raise competition concerns.

56. The Administration has advised that the legal requirement for a seller of goods to charge for PSBs provided will remain unchanged after the implementation of MSW charging, and DBs will not be subject to the same control on PSBs as provided for under the Product Eco-responsibility Ordinance. In order to promote re-use and waste reduction and achieve the effect of "one bag for dual purposes" which is also adopted in other cities that practise MSW charging, the Administration plans to invite authorized retailers to sell DBs instead of providing PSBs. The Administration does not plan to make this a mandatory requirement and it will be up to the authorized retailers of DBs to choose whether to sell DBs in lieu of PSBs. Much will also depend on the willingness of the consumers if and when the authorized retailers of DBs offer them such an option.

57. The Administration has further pointed out that as far as the implication on the sale of non-DBs and the sale of PSBs in bulk to supermarkets is concerned, while the mandatory requirement to use DBs for disposal of MSW is expected to significantly reduce the scope of the use of non-DBs, the Competition Commission recognizes that it is a balancing act for the Government to weigh between achieving the policy objective of the implementation of the proposed charging regime and the potential impact on the non-DB market.

*Sale and distribution of designated bags and designated labels*

58. Regarding the distribution of DBs and DLs, individual members have raised the following views/suggestions:

- (a) DBs and DLs may be provided to members of the public free-of-charge for a limited period (say, about 6 to 12 months) at

the early stage of implementation of the proposed charging scheme to allow the community to get accustomed to the charging arrangements gradually;

- (b) as garbage bags are commonly used by the general public for wrapping and disposal of MSW, some members are concerned that the production and use of DBs for implementation of the proposed charging scheme may give rise to additional plastic bags landfilled each year;
- (c) reuse of PSBs as DBs should be allowed through the attachment of a specific pre-paid label in order to reduce waste; and
- (d) online purchase of DBs and DLs should be made available.

59. The Administration has taken note of members' views and suggestions above, and advised that it plans to put in place a preparatory period of 12 to 18 months after the passage of the Bill and before the actual implementation of MSW charging, as well as a phasing-in period lasting for six months after the commencement of MSW charging to allow the community to get accustomed to the regulatory requirements. The Administration will continue to explore different ways to promote public awareness of the introduction of MSW charging during the preparatory period. Moreover, under some community involvement and trial projects on MSW charging, dummy bags have been provided to participants for free to try out the charging arrangements.

60. The Administration has advised that the implementation of the proposed charging scheme is expected to reduce the overall disposal of MSW, which includes garbage bags, at landfills, and there should not be a significant increase in the disposal of waste plastic bags at landfills due to the proposed charging scheme. Under the proposed implementation arrangements for MSW charging, the public will be required to purchase DBs instead of using ordinary garbage bags for disposal of MSW. Hence, it is expected that the implementation of MSW charging will unlikely lead to a significant increase in the number of plastic bags to be used for disposing MSW.

61. As regards the use of PSBs for the purpose of waste disposal, the Administration will continue to promote the culture of "bring your own bag" and will further review the effectiveness of PSB charging in reducing the use and subsequent disposal of PSBs. The Administration will also encourage supermarkets and convenience stores etc. to sell DBs in lieu of PSBs as a means to further promote re-use and waste reduction, and achieve the effect of "one bag for dual purposes".

### Implementation strategy

62. The Administration has informed members that, to drive necessary behavioural and cultural changes, it will adopt a multipronged strategy based on (a) provision of appropriate preparatory time; (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; and (f) risk-based enforcement approach.

#### *Enhancing support for waste reduction and recycling*

63. The Bills Committee has expressed concern on whether there will be sufficient measures and resources for waste reduction and recycling to complement MSW charging, for instance, whether there will be adequate outlets for the increased amount of recyclables collected as a result of the implementation of the proposed charging scheme.

64. The Administration has advised that to support various stakeholders and members of the public to practise waste reduction and recycling, MSW charging revenue will be used for enhancing waste reduction and recycling work. To this end, it has been announced in the 2018 Policy Address that the Government will provide additional recurrent resources to strengthen its work on these fronts starting from the financial year ("FY") 2019-2020, which will be further increased to no less than \$800-1,000 million from the FY when 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 in the initial period so as to achieve the effect of "dedicated-fund-for-dedicated-use". If the MSW charging revenue in an FY exceeds this amount, the relevant provision for the subsequent FY will be correspondingly increased to the same level. In any case, the additional resources will not be less than the basic amount of \$800-1,000 million in each FY after the implementation of MSW charging. This quantum of additional funding will be reviewed in tandem with the Administration's proposed review of the levels of MSW charges three years after its implementation. The proposed arrangement is consistent with the policy rationale underpinning MSW charging in that more MSW charges collected may mean higher disposal of MSW, thereby calling for more efforts to promote waste reduction and recycling.

65. The Administration has allocated the additional resources to fund various waste reduction and recycling initiatives,<sup>11</sup> including:

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<sup>11</sup> For details of the four waste reduction and recycling initiatives, please refer to paragraphs 16 to 22 of the LegCo Brief.

- (a) the setting up of outreaching teams under the Environmental Protection Department ("EPD") to provide on-site assistance to the community, thereby putting waste reduction and recycling and MSW charging into practice;
- (b) regularization of funding support for Community Recycling Centres ("CRCs");
- (c) provision of free territory-wide collection service in respect of waste plastics from non-C&I sources and food waste from all sources in the longer run subject to the experiences gained from the pilot schemes and the progress of developing food waste recovery centres in Hong Kong; and
- (d) implementation of a pilot scheme to assess the effectiveness of applying reverse vending machines in promoting the recycling of plastic beverage containers.

66. The major views and suggestions raised by individual members on the Administration's measures on enhancing waste reduction and recycling are as follows:<sup>12</sup>

- (a) the Administration should expedite the provision/development of space and facilities to complement the implementation of the proposed charging scheme. In this connection, the design/functions of RCPs and RBs should be reviewed;
- (b) the effectiveness of different channels of collecting recyclables (i.e. through NGOs or private recyclers) should be reviewed and consolidated as appropriate;
- (c) performance requirements should be stipulated in the relevant outsourced service contracts in respect of the minimum quantities of recyclables collected/processed;
- (d) the outreaching teams should establish an effective communication network with various stakeholders (in particular residents in villages, single block buildings and "three-nil buildings" (i.e. buildings which do not have an owners' corporation or any form of owners/residents organizations or engage a PMC);

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<sup>12</sup> For details of members' views/suggestions and the Administration's responses, please refer to **Appendix III** to this report.

- (e) performance indicators should be set for assessing the work of the outreaching teams and the Community Recycling Network ("CRN");
- (f) the Administration should expedite the setting up and/or commissioning of Community Green Stations in all districts, and expand the coverage of CRN while increasing funding support for CRCs with a view to expanding the latter's scales and coverage as well as upgrading their service quality. NGOs currently operating CRCs should be given priority to maintain CRCs' operations after the proposed regularization of funding support;
- (g) the Administration should expeditiously implement more producer responsibility schemes, including that for waste plastics;
- (h) measures and incentives/rewards should be provided to encourage the public to practise waste reduction and separation (in particular separation of dry and wet household waste at source) as well as resource recovery;
- (i) relevant departments and authorities should closely collaborate in the implementation of the proposed charging scheme, related complementary measures as well as the development of the recycling industry; and
- (j) the Administration should enhance support for recyclers (e.g. providing sites for recycling uses near waste disposal facilities so as to reduce the overall transportation cost) and may consider providing subsidies in respect of recyclables.

67. At the request of the Bills Committee, the Administration has agreed that the Secretary for the Environment will undertake in his speech at the Second Reading debate (if resumed) on the Bill that with approval of the Bill by LegCo, the Administration will launch the pilot scheme on food waste collection at selected areas by end 2020 to collect and deliver food waste from some domestic and C&I sectors to food waste treatment facilities; and that subject to the effectiveness of this pilot scheme and with the gradual development of more food waste treatment facilities, the Administration plans to expand the said service to the whole territory.

## Enforcement

### Enforcement approach

68. The Bills Committee has questioned the Administration's capability and manpower resources to enforce the proposed charging scheme effectively, and expressed strong concerns about potential aggravation of fly-tipping and environmental hygiene problems (in old buildings and "three-nil buildings" in particular) arising from potential abuse of LCs at public places,<sup>13</sup> evasion of the use of DBs and hence payment of the MSW charge after implementation of the proposed charging scheme, given that non-compliance with some existing environmental regulations (e.g. those relating to C&D waste disposal, littering, idling vehicle engines) is not uncommon, and as the patterns of illegal disposal of household waste are likely to be more irregular and unpredictable than the patterns of C&D waste fly-tipping. The Bills Committee stresses that the Administration should assist residents, in particular those in "three-nil" buildings and public housing estates, to put MSW charging into practice and prevent them from abusing LCs in public places to evade the use of DBs.

69. The Administration has advised that experiences in Seoul and Taipei City show that public awareness and participation during the initial launch of MSW charging is critical to its smooth implementation. Intensive and strict enforcement actions across the community upfront may not be the best approach bearing in mind the public do need time to adapt to the new charging scheme. After the passage of the Bill, the Administration will put in place a preparatory period of 12 to 18 months to allow time for stakeholders to prepare for the actual implementation of the proposed charging scheme; and establish a Municipal Solid Waste Reduction Office for coordinating the work of relevant departments in respect of MSW charging.

70. The Administration has also advised that drawing on the successful experience of the Plastic Shopping Bags Charging Scheme, the Administration intends to put in place a six months' phasing-in period after the commencement of MSW charging. During this period, the frontline staff of FEHD at relevant waste reception points will conduct visual screening to see if the waste handed over to them has been properly wrapped in DBs or affixed with DLs, and will reject NCW. The Administration will mainly issue warnings to non-compliant cases but enforcement actions will be taken in case the nature and magnitude of the offence calls for enforcement, e.g. if the offender repeatedly contravenes the law despite warnings given. This arrangement will allow the community to get accustomed to the requirements in the initial period and to cater for the possibility that some waste generators may need a bit more time to gradually

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<sup>13</sup> For issues relating LCs, please refer to paragraphs 6 to 8 of **Appendix III** to this report.

change their behaviour. EPD will conduct a survey to identify the kerbside collection points where PWCs collect MSW and undertake targeted publicity and public education for relevant parties including PWCs, residents and frontline cleaning staff. FEHD and EPD will also work together in exploring the feasibility of collaborating with relevant stakeholders in cultivating good habit of proper disposal of MSW.

71. The Administration has further advised that after the phasing-in period, strict enforcement actions will be taken on a risk-based approach, with particular attention given to black spots. Specifically, the frontline staff of FEHD will continue with the visual screening at waste reception points and reject NCW during the phasing-in period. In addition, EPD and FEHD will, based on complaints and reports on non-compliance from frontline cleaning staff, waste collection contractors, PMCs and the public, conduct surveillance and enforcement actions at the different premises, pick-up points and black spots. Fixed penalty tickets at \$1,500 each will be issued to offenders intercepted on the spots, and prosecution by way of summons will also be taken against serious and repeated offenders.

72. The Administration has explained that, with some 22 000 waste reception points and individual floors of some 45 000 buildings in the territory, conducting regular inspection in these buildings will induce a disproportionately excessive demand on the enforcement manpower and may be viewed by the public as causing unnecessary privacy intrusion and interference. Hence, based on the intelligence and complaints received from the public and PMCs, the Administration will draw up a list of black spots for conducting inspection and enforcement actions against offenders in individual buildings after obtaining the agreement of relevant residents' organizations/PMCs. Experiences in other cities show that as it will take time to cultivate the necessary culture change, the fly-tipping problem may aggravate with the implementation of MSW charging in the initial period, and compliance situation will gradually improve with time.

73. In response to the Bills Committee's enquiry, the Administration has provided information on the manpower resources for implementation and enforcement of the proposed charging scheme (**Appendix IV**) and interdepartmental cooperation on enforcement against fly-tipping activities (**Appendix V**).

Proposed offences related to depositing and delivery of non-compliant waste

*Section 20K (Depositing non-compliant waste prohibited) and meaning of "deposits", "deposited" and "causes or permits to be deposited"*

74. The Bills Committee has enquired about the meaning of the terms "deposits" and "deposited" in the proposed section 20K(1) of WDO, which seeks to provide that a person commits an offence if the person deposits, or causes or permits to be deposited, any NCW at an RCP, onto a waste vehicle or into a specified bin. The Administration has also been requested to clarify the meaning of the term "causes or permits to be deposited".

75. The Administration has advised that the terms "deposits" and "deposited" are not new to WDO as the same *actus reus* appears in various existing offences under WDO. In line with the general principle of statutory interpretation, the terms should be construed in their ordinary meanings, i.e. "put or set down in specific place", and in the light of the context and purpose of WDO. The Administration has further advised that "deposit" and "depositing" are given a non-exhaustive definition in section 2(1) of the Summary Offences Ordinance (Cap. 228) to include "casting, throwing, sweeping, placing or dropping litter". These definitions do not go beyond the ordinary meaning of "deposit".

76. The Administration has also explained that the drafting of the proposed section 20K(1) of WDO aims to reflect the intended regulatory approach to catch not only a person who deposits NCW, but also those who may be regarded as responsible for that person's conduct, namely those who causes or permits it, following the existing fly-tipping control. The term "cause" should be construed in its ordinary meaning. The relevant offence under the proposed section 20K(1) is a strict liability offence. For example, if a person ("Person A") gives an express or implied instruction to somebody else ("Person B"), to deposit NCW, Person A "causes" Person B to deposit NCW. In this example, Person A can be (but is not limited to) Person B's employer or a client who engages Person B's services. As regards the term "permit", given the offence under the proposed section 20K(1) is a strict liability offence,<sup>14</sup> and having regard to the availability of statutory defences under the proposed section 20Q, the relevant permission may be express, or implied, and may include doing nothing to prevent the prohibited act from occurring. If Person A fails to exercise his or her authority to stop or prevent Person B from depositing NCW, Person A "permits" Person B to deposit NCW. In essence,

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<sup>14</sup> The offence under the proposed section 20K(1) is proposed to be a strict liability offence pursuant to section 31 of WDO that may be amended by clause 6 of the Bill. Section 31 concerns mental ingredients of certain offences under WDO.



Person A is in a position of authority to permit or not to permit Person B to make the deposit. For example, Person A can be the person-in-charge at an RCP.

*Designated bags inside "specified bins"*

77. The Administration has been requested to clarify what a "specified bin" (a new definition proposed to be added under section (2)1 of WDO) is intended to be and whether it will include the ordinary LCs currently put in public places by the Government; and whether a person who (a) unties the opening of a properly tied DB inside a specified bin in order to take away the cartons and soft drink cans inside the DB and then leaves without re-tying the DB; or (b) takes away cartons inside a DB which is not tied and then leaves without tying the DB will be considered as "depositing" that DB and the remaining waste therein, thereby contravening the proposed section 20K(1)(c).

78. The Administration has advised that "specified bins" (指明桶箱) are intended to be refuse containers managed by FEHD for collecting MSW that are normally placed at RCPs managed by FEHD. The MSW collected therein are to be further collected by FEHD's waste vehicles. A "specified bin" does not cover LCs put in public places as managed by FEHD. Prescribed signs will be exhibited on specified bins, regardless of whether they are placed in RCPs, as required under the Bill to facilitate easy identification by the public. As regards LCs, they are designed for the collection of small quantity of small-size litter generated by pedestrians. Depending on the actual circumstances, the depositing of waste at the side or on top of an LC may constitute an offence under relevant existing legislation.

79. The Administration has further advised that in general if a DB is opened and not re-tied up, the MSW contained in such a DB will fall outside the definition of "wrapped in a DB" and hence become NCW. MSW may escape from an untied DB during handling and transportation, causing pollution or other environmental hygiene problems. In order to facilitate effective implementation of the charging requirement, the underpinning legal requirements should not seek to provide for exemptions unless they are strictly necessary lest this should undermine the integrity of the charging regime. Under the Bill, the act of untying a DB inside a specified bin in an RCP and leaving it untied is likely to constitute "depositing" for the purpose of the proposed section 20K, subject to the actual circumstances of the cases involved. However, whether enforcement actions will be taken in such cases, and if so, the priority it will be accorded with, depends on the actual facts and circumstances of individual cases.

*Section 20L (Depositing non-compliant waste by removal services provider prohibited); and*

*Section 20M (Delivering non-compliant waste to certain persons prohibited)*

80. The Bills Committee has sought clarification as to whether a person (other than a waste collection officer) who is acting in the course of providing removal services will commit an offence for depositing NCW under the proposed section 20L(1) of WDO if the person deposits onto a waste vehicle DBs which have been damaged (e.g. by dogs or rats) so that solid waste inside the DB can escape from the bag during the handling process.

81. The Administration has advised that regardless of how the damage of a DB has been caused or whether the case involves a deliberate use of damaged DB by the waste disposer, a damaged DB to the extent that the MSW will escape from the DB will fall outside the definition of "wrapped in a designated bag" and it will be considered as NCW. A person (other than a waste collection officer) who is acting in the course of providing removal services will commit an offence for depositing NCW under the proposed section 20L(1) if the person deposits such DB onto a waste vehicle, subject to the statutory defences under the proposed section 20Q (such as taking all reasonable precautions and exercising all due diligence). However, whether enforcement actions will be taken in such cases, and if so, what priority it will be accorded with, depend on the actual facts and circumstances of individual cases.

*Differential treatment for government employees and non-government employees*

82. The Bills Committee has noted that employees not employed by the Government who are acting in the course of providing removal services by a waste vehicle on behalf of the Government will commit an offence under the proposed section 20L(1) for depositing NCW onto a waste vehicle. The Administration has been requested to explain why this offence is not applicable to waste collection officers employed by the Government.

83. The Administration has advised that a person who commits an offence under the proposed section 20L(1) will be liable to a fine at level 2 (i.e. \$5,000) or fixed penalty of \$1,500 of a Fixed Penalty Notice pursuant to the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570). As for a waste collection officer who is employed by the Government (i.e. FEHD's staff) and carries out the duty of loading MSW onto a waste vehicle or moving MSW at an RCP, default in performance will be subject to disciplinary action which may have more serious implications. The Administration therefore does not consider it necessary to apply the offence to FEHD's staff.

*Delivering recyclables to refuse collection points*

84. Given that recyclables collected by the contractors of FEHD are temporarily stored at RCPs pending further transportation under the existing practice, the Bills Committee has enquired whether the Administration will consider amending the proposed section 20M of WDO to the effect that a person who delivers to an RCP recyclables (including food waste) not wrapped in a DB or attached with a DL will not commit an offence.

85. The Administration has advised that currently, FEHD provides RBs outside RCPs for the collection of waste paper, metal and plastics. Members of the public are required to deposit recyclables into corresponding RBs outside RCPs or bring them to other nearby recycling facilities (e.g. Community Green Stations and CRCs) as appropriate. At present, only FEHD or its contractors are allowed to temporarily store the recyclables inside RCPs in cases where the RBs outside RCPs are full, pending collection by the recyclable collection contractors.

*Section 20P (Depositing non-compliant waste in certain common areas prohibited)<sup>15</sup> and issues related to depositing non-compliant waste into refuse chute*

86. The Bills Committee has enquired whether the proposed section 20P(1) and (2) of WDO will apply, or the proposed section 20P(3)(c) will apply (so that the proposed section 20P(1) and (2) will not apply), where a cleaning worker employed by the PMC of a building equipped with a refuse chute deposits NCW into the refuse chute. The Administration is also requested to clarify whether the act in question will be regarded as "connected with the removal of [MSW] from the premises" for the purpose of the proposed section 20P(3)(c).

87. The Administration has explained that the proposed section 20P(1) (on the prohibition of "depositing NCW in certain common areas") will not apply under certain circumstances as described in the proposed section 20P(3). The proposed section 20P(3)(c) concerns the situation where the NCW is deposited, or caused to be deposited, by any person in providing services connected with the removal of MSW from the premises. "Services connected with the removal of municipal solid waste from the premises" ("the services") under the proposed section 20P(3)(c) generally refer to the various services rendered in preparation for the removal of MSW from the premises concerned by FEHD or by a private waste removal service provider. Taking a multi-storey residential building as an example, the services will include the collection of MSW from

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<sup>15</sup> The common area of a premise is an area used for depositing waste pending for removal from that premise for disposal.

various parts of the premises (e.g. from the waste bins or refuse chambers of each floor), the transportation of the waste through service lifts or otherwise to the central refuse chamber for temporary storage before collection by FEHD or a private waste removal service provider, etc. A cleaning worker employed by a PMC of such a building generally can be considered as "any person who provides services connected with the removal of MSW from the premises" under the proposed section 20P(3)(c). He/she will be exempted from the offence of depositing, or causing to be deposited, NCW into a waste chute of a premise by virtue of the proposed section 20P(3)(c).

*Obligations and liabilities on frontline cleaning staff and PMCs*

88. In connection with the proposed offence and defence clauses, the Bills Committee has further raised the following enquiries/views/suggestions regarding the obligations and liabilities on the frontline cleaning staff and PMCs arising from the implementation of the proposed charging scheme:

- (a) the proposed charging scheme will cause undue burden and legal risks to the frontline cleaning staff as they may inadvertently commit a proposed offence under the Bill when handling NCW. The Administration should provide guidance to enhance frontline cleaning staff's understanding of the requirements and their responsibilities under the proposed charging scheme;
- (b) what steps should be taken by the PMC of a building and the cleaning staff it employs when handling NCW deposited in the building by a waste producer;
- (c) whether the defence under the proposed section 20Q(1)(b) of WDO will be established if the person has only conducted visual screening of MSW he/she is to collect;
- (d) a PMC may not be able to identify the source of NCW, in particular if it is directly passed down a refuse chute to a refuse skip by a waste producer;
- (e) whether the Administration will consider introducing amendments to the Bill with a view to enhancing the protection of PMCs and frontline cleaning workers who provide waste collection/removal services in buildings, such as by (i) adding a defence clause to the effect that PMCs/frontline cleaning workers will not commit an offence related to the depositing/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;

- (f) the effectiveness of the proposed charging scheme will be undermined if PMCs will make arrangements to use DBs to wrap NCW deposited by individual households during their routine waste collection/removal services. Besides, the property management fee may be increased in future to cover the additional costs borne by the PMC. This will be unfair to compliant households, which will have to indirectly subsidize the proposed MSW charge arising from non-compliant households;
- (g) given that routine "removal services" (i.e. services connected with MSW removal, as defined under the Bill) are generally performed within a short time frame, there may not be sufficient time for the persons involved in the provision of removal services to inspect the waste collected from the premises and reject NCW before loading it onto the waste vehicle. Moreover, waste from different households is usually mixed in refuse skips before it is loaded onto a waste vehicle, making it difficult to check whether all waste inside will have been wrapped in DBs;
- (h) if the frontline cleaning staff will be expected to leave NCW at where it was found pending the arrival of enforcement officers; the delayed removal of such waste will give rise to environmental hygiene problems;
- (i) how the Administration will ensure sufficient deterrence against depositing of NCW in the common areas for waste at PRHs and multi-storey private buildings, including whether installation of more surveillance systems on individual floors of the buildings will be considered; and
- (j) PMCs may not be willing to report offences to the authorities due to their aversion to potential conflicts with residents.

89. The Administration has explained that in order to effectively implement MSW charging, it is important to ensure that the MSW disposed of has been charged through the use of DBs or DLs as appropriate (save those subject to gate fee). As such, removal services providers and their employees; and the cleaning staff employed by the PMC of a building should not collect or deliver NCW. The legislative intent has been reflected in the proposed section 20L(1) and section 20M(1). They are expected to check whether the MSW they collect or deliver is NCW, and this intent has been reflected in the defences under proposed section 20Q(1)(a) and section 20Q(1)(b) which require the

relevant person to take all reasonable precautions and exercise all due diligence, or take all reasonable steps, to avoid committing the relevant proposed offences.

90. The Administration has elaborated that while the cleaning staff will be expected to conduct visual screening of waste collected from the premises before it is loaded onto a waste vehicle, it is understood that it will not be practicable to require them to check whether all waste mixed in a refuse skip, which comes from different households, is wrapped in DBs. If a cleaning worker collecting MSW from a residential building identifies an NCW disposed of in a common area of that premise, he/she can continue to handle such NCW (such as transportation of such NCW through service lifts or otherwise to the central refuse chamber for temporary storage before collection by FEHD or a private waste removal service provider) without committing an offence under the proposed section 20P(1) by virtue of the proposed section 20P(3)(c). The cleaning worker will not be required to prove that the NCW concerned was deposited by another party before handling it. However, it should be noted that cleaning workers are prohibited from depositing, or causing or permitting to be deposited, NCW onto a waste vehicle under the proposed section 20L. Based on the defences under the proposed section 20Q, it will generally be reasonable for cleaning workers to inform his/her employer/supervisor, or the management office of the building to rectify the problem such as by wrapping NCW with a DB before depositing it onto a waste vehicle.<sup>16</sup> Generally speaking, they will be expected not to collect from waste producers any NCW, or deliver NCW they identify to a person/party involved in the provision of removal services. PMCs or relevant persons may send complaints and reports on non-compliance by households to EPD and provide information as appropriate.

91. As regards buildings with refuse chutes, the Administration has pointed out that currently, the refuse chutes are locked and only accessible by cleaning workers employed by the respective PMCs in about 80% to 90% of the buildings. The Administration will recommend buildings with refuse chutes to adopt the same practice, so that individual households will not be able to deposit NCW into the refuse chutes inconspicuously.

92. The Administration has also advised that when bagged refuse collected in a refuse skip is being loaded onto a waste vehicle, it will be generally possible to spot individual bags of NCW, if any. As far as the waste removal service provided by FEHD or its contractors is concerned, the Administration's initial preliminary idea is that by and large all MSW in a refuse skip will still be

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<sup>16</sup> According to the Administration, some PMCs plan to provide DBs on individual floors and require frontline cleaning staff to wrap NCW in DBs before passing the waste down a refuse chute, while some other PMCs plan 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.

loaded onto a waste vehicle if there is only a very small amount of NCW (say one or two bags), so that the routine waste removal service will not be affected by such minor cases of non-compliance. However, if there are many bags of NCW in the refuse skip, the cleaning worker employed by FEHD or its contractor may reject loading the waste in the skip onto the waste vehicle.

93. The Administration stresses that the major target of the Administration's enforcement actions related to NCW will be the waste producers, but not frontline cleaning staff. Besides, PMCs will not be required by the Bill to take punitive actions themselves against non-compliant households. The Administration will provide guidelines and training to stakeholders including PMCs and cleaning workers to help them put MSW charging into practice and facilitate their compliance with MSW charging. The Administration points out that it is for the court to decide whether the verbal instruction of the employer/supervisor to a frontline cleaning worker will constitute a valid defence under the proposed section 20Q(1)(b) of WDO. According to the Administration, if a defendant raises the defence under the proposed section 20Q(1)(b), the court will consider, among other things, the relevant operational guidelines.

#### Application of information technology initiatives

94. The Administration has taken note of the following views/suggestions raised by individual members regarding the installation and use of surveillance cameras for enforcement:

- (a) the Administration should consider exploring the wider application of new technologies with reference to experiences in other places to facilitate the implementation and enforcement of MSW charging, and promoting the development of a "Smart City" at the same time. For instance, the radio frequency identification technology may be used for the collection and analysis of data on waste disposal and recovery, and 360-degree cameras may enhance their surveillance coverage and mobility;
- (b) the Administration should consider using smart technology to enable round-the-clock monitoring of fly-tipping black spots and improve enforcement efficiency; and
- (c) some members consider that considerations should be given to expanding the coverage of surveillance camera systems given that fly-tipping activities can be shifted to locations where surveillance camera systems are not installed. Some other members, however, disagree to the widespread use of surveillance camera systems in public places having regard to privacy protection.

95. Information provided by the Administration on the installation of surveillance cameras and its effectiveness as well as related issues raised by individual members is given in **Appendix VI**.

*Counterfeiting of designated bags/designated labels*

96. The Bills Committee has asked about the measures to prevent and detect counterfeiting of DBs and DLs; and penalties (if any) for the manufacturing, distribution, sale and use of counterfeit DBs/DLs.

97. The Administration has advised that DEP will publish a notice in the Gazette to specify the specifications for DBs and DLs, including their sizes, shapes, designs and materials (i.e. proposed section 20T) for easy reference by the public on authenticity of DBs and DLs. To prevent counterfeit DBs/DLs, each DB/DL will bear unique anti-counterfeit features including an anti-counterfeit hologram. An application will be filed for registration under section 47 of the Trade Marks Ordinance (Cap. 559) to register the DBs and DLs as registered trademarks. Besides, DBs and DLs may only be sold at sale points authorized by DEP.

98. According to the Administration, under section 7(1) and section 9(2) of the Trade Descriptions Ordinance (Cap. 362) ("TDO"), it will be an offence for a person to sell, offer to sell, or exhibit for sale or use counterfeit DBs and/or DLs, and will be tackled under TDO. Any person who commits an offence under sections 7 and/or 9 of TDO shall be liable on conviction on indictment, to a fine of \$500,000 and to imprisonment for 5 years or on summary conviction, to a fine of \$100,000 and to imprisonment for 2 years. Furthermore, if a person uses counterfeit DBs and/or DLs for disposal of MSW, he/she can be prosecuted for the proposed offences under the Bill because MSW contained in a counterfeit DB or with a counterfeit DL attached is NCW (i.e. proposed section 20K).

*Voluntary activities related to waste removal and recycling*

99. The Bills Committee has asked the Administration to clarify, in the case of citizens voluntarily picking up waste which does not pose danger to the public on the street and depositing it without using DB or DL at an RCP (e.g. after a strong typhoon), whether they will commit an offence under the proposed section 20K(1)(a) of WDO.

100. Some deputations opine that the implementation of the proposed charging scheme may affect the existing voluntary activities related to removal/recycling/reuse of waste, such as exchange of used goods and voluntary coastal clean-up activities, due to the legal and financial risks



involved. The Bills Committee has enquired how the Administration will promote the continuation of such voluntary activities after the implementation of the proposed charging scheme; and what related volunteers will be expected to do in order to avoid the commission of the proposed offences under the Bill. The Administration has also been requested to consider introducing an amendment to the Bill to the effect that people who take part in voluntary waste removal activities (such as voluntary clean-up activities following a natural disaster) will be granted an exemption from using DBs/DLs for depositing the relevant MSW or delivering it to the relevant parties.

101. The Administration has advised that while it will be a legal requirement that DBs/DLs have to be properly used when disposing of MSW at an RCP, it will not be a common occurrence for a person on the street to voluntarily move MSW deposited by someone else on the street to the RCP. In the unlikely event of such happening, whether this person will commit the relevant proposed offences will have to be considered based on the actual facts and circumstances.

102. On the other hand, for cleaning activities organized 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, DEP may supply DBs or DLs for free. Having regard to the nature of the events, the need to upkeep the "polluter-pays" principle, and other relevant factors, DEP may supply DBs or DLs for free to any person or organization as necessary.

#### Assessment of the effectiveness of the municipal solid waste charging scheme

103. The Bills Committee has asked about the target reduction in the per-capita MSW disposal rate after the implementation of the proposed charging scheme, and the Administration's plan if the pace of reduction in the MSW disposal rate is slower than expected.

104. The Administration has advised that the "Hong Kong: Blueprint for Sustainable Use of Resources 2013-2022" has set out a target of reducing MSW disposal rate by around 40% on a per-capita basis through the implementation of various measures, including the proposed charging scheme, food waste reduction and recycling initiatives, producer responsibility schemes, etc. After the introduction of MSW charging, the Administration will closely monitor the pace of reduction in the MSW disposal rate, and if necessary, implement further measures to help targeted groups put MSW charging into practice. It is expected that the proposed charging scheme can enable the collection of more accurate data on MSW disposal in the territory as well as from individual households or institutions. However, as a multi-pronged strategy is adopted for waste reduction and recycling in Hong Kong, it will not be practicable to

assess the effectiveness of MSW charging in isolation of other measures. Experiences in other cities show that quantity-based waste charging that accords with the "polluter-pays" principle, coupled with other related measures, is effective in achieving waste reduction. The Administration envisages that MSW charging may help reduce waste disposal by some 20%. Despite the above references, the actual effectiveness of MSW charging in reducing waste disposal depends on various factors, not least the extent and pace of behavioural changes of the general public. The Administration will monitor and review the overall effectiveness of MSW charging in reducing waste disposal after its implementation in conjunction with the other waste reduction and recycling initiatives.

#### Other legal and drafting issues relating to the Bill

105. The Bills Committee has noted the enquiries raised by the legal adviser to the Bills Committee, and the Administration's written responses, on certain legal and drafting issues relating to the Bill.<sup>17</sup>

#### **Advice sought**

106. Members are invited to note the deliberations of the Bills Committee and its decision to discontinue the scrutiny work on the Bill.

Council Business Division 1  
Legislative Council Secretariat  
9 July 2020

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<sup>17</sup> For details, please refer to the two letters from the legal adviser to the Bills Committee (LC Paper Nos. CB(1)205/18-19(02) and CB(1)875/18-19(03)) and the Administration's written responses (LC Paper Nos. CB(1)396/18-19(01) and CB(1)1000/18-19(04)).

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

**Membership list\***

<b>Chairman</b>	Hon MA Fung-kwok, SBS, JP
<b>Deputy Chairman</b>	Hon Steven HO Chun-yin, BBS
<b>Members</b>	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 Kenneth LEUNG 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 Hon CHU Hoi-dick Dr Hon Junius HO Kwan-yiu, 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

(Total: 29 members)

**Clerk** Ms Angel SHEK

**Legal Adviser** Mr Cliff IP

\* Changes in membership are shown in Annex to Appendix I.

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

**Changes in membership**

<b>Member</b>	<b>Relevant date</b>
Hon Tanya CHAN	Since 7 January 2019
Hon Mrs Regina IP LAU Suk-ye, GBS, JP	Up to 11 November 2019
Hon Gary FAN Kwok-wai <sup>1</sup>	Up to 16 December 2019
Hon AU Nok-hin <sup>2</sup>	Up to 16 December 2019

<sup>1</sup> According to the Judgment of the Court of First Instance of the High Court handed down on 13 September 2019, Mr Gary FAN Kwok-wai was not duly elected as a member of LegCo at the LegCo by-election held on 11 March 2018 and no other person was duly elected instead. According to the decision of the Appeal Committee of the Court of Final Appeal of 17 December 2019 refusing Mr FAN's application for leave to appeal, Mr Gary FAN Kwok-wai, by virtue of section 72(5)(b) of Cap. 542, has ceased to be a member of LegCo since 17 December 2019.

<sup>2</sup> According to the Judgment of the Court of First Instance of the High Court handed down on 2 September 2019, Mr AU Nok-hin was not duly elected as a member of LegCo at the LegCo by-election held on 11 March 2018 and no other person was duly elected instead. According to the decision of the Appeal Committee of the Court of Final Appeal of 17 December 2019 refusing Mr AU's application for leave to appeal, Mr AU Nok-hin, by virtue of section 72(5)(b) of Cap. 542, has ceased to be a member of LegCo since 17 December 2019.

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

**List of deputations and individuals which/who have given views  
to the Bills Committee**

- \* 1. A member of the public (Referrals from the Public Complaints Office)
- \* 2. Advisory Council on the Environment
- \* 3. Airport Authority Hong Kong
- 4. Business Environment Council Limited
- 5. Christian Family Service Centre
- 6. Chun Shing Development (Hong Kong) Limited
- 7. Community Leap
- 8. Democratic Alliance for the Betterment and Progress of Hong Kong
- \* 9. Designing Hong Kong
- 10. Dr Calvin KWOK
- 11. Dr CHUNG Shan-shan
- \* 12. Dr Winnie LAW
- 13. Ecodrive Hong Kong Limited
- \* 14. Environmental Association
- 15. Environmental Contractors Management Association
- 16. Environmental Management Association of Hong Kong
- 17. Environmental Services Contractors Alliance (Hong Kong)
- \* 18. European Union Office to Hong Kong and Macao
- \* 19. Federation of Hong Kong Industries
- 20. Food Commons
- \* 21. Food Grace
- 22. Friends of the Earth (HK)
- 23. Globalization Monitor
- 24. Government Frontline Employee Union
- \* 25. Green Council
- 26. Green Power
- 27. Green Sense
- 28. Greeners Action
- 29. Greeners South
- 30. Greenpeace
- 31. Hong Kong Catering Industry Association
- 32. Hong Kong Chef Union
- \* 33. Hong Kong Dumper Truck Drivers Association
- 34. Hong Kong Federation of Restaurants & Related Trades Limited
- \* 35. Hong Kong General Chamber of Commerce
- \* 36. Hong Kong Green Building Council Limited
- 37. Hong Kong Green Strategy Alliance
- 38. Hong Kong Institute of Qualified Environmental Professionals Limited

39. Hong Kong Waste and Recyclables Operators Network
40. Hong Kong Waste Disposal Industry Association
41. Hong Kong Waste Management Association
42. Hong Yip Service Co. Limited
43. Institution of Dining Art
44. Labour Party
45. League of Social Democrats
46. Miss CHAN Hoi-chi
47. Miss CHAN Po-kuen
48. Miss CHAN Wing-kwan
49. Miss CHEUNG Sin-ying
50. Miss JIM Hoi-ying
51. Miss MA Ka-po
52. Miss May YEUNG
53. Miss NG Yee-yan
54. Miss Theresa YUNG
55. Mr Adrian FUNG
56. Mr Angus WONG
57. Mr AU Loong-yu
58. Mr CHU Kong-wai
59. Mr CHUNG Ka-wing
- \* 60. Mr John CHAI
61. Mr Justin SONG
62. Mr LEE Kwok-kuen
63. Mr LEUNG Kwok-hung
64. Mr Merrick YEUNG
65. Mr NG Tsz-lok
66. Mr TO Ka-lun
67. Mr WONG Cho-leung
68. Mr YEUNG Tsz-chun
69. Mrs Claire Michele YATES
70. Mrs Yolanda CHOY
- \* 71. Ms Clarisse YEUNG
72. Ms Dana LAU
- \* 73. Ms Helen LEUNG
74. Ms LI Mei-siu
- \* 75. Ms Tansy TOM
- \* 76. Plastic Free Seas
- \* 77. Professor HO Kin-chung
- \* 78. Professor Jonathan WONG
- \* 79. Professor LO Man-chi
- \* 80. Professor POON Chi-sun
- \* 81. Professor SHIH Kaimin
82. Reconnect Limited

83. Secure Information Disposal Services Limited
84. Sham Ching Youth Association
85. Single-Use Beverage Packaging Working Group
86. Swire Pacific Limited
- \* 87. Swire Properties Limited
- \* 88. The Chinese Manufacturers' Association of Hong Kong
- \* 89. The Civic Party
90. The Conservancy Association
91. The Federation of Environmental And Hygienic Services
92. The Green Earth
93. The Hong Kong Association of Property Management Companies
94. The Hong Kong Association of Property Services Agents
95. The Hong Kong Institution of Engineers
96. The Hong Kong Registered Contractors Association
97. The Lion Rock Institute
98. To Kwa Wan Grassroots' Housing Rights Concern-Group
- \* 99. Tuen Mun District Council Secretariat
100. Wisdom Regeneration
101. World Green Organisation
- \* 102. Yau Lee Construction Company Limited
103. Zero Waste Yuen Long
104. 121C Recycle Centre
- \* 105. 1<sup>st</sup> Step Association
106. 自由黨青年團
107. 趙恩來先生
108. 香港物業管理聯會
109. 中西衛城區固體廢物收費關注組
110. 兆翠關注組
111. 掃街者聯盟
112. 勞工組
113. 元朗環保共享居民互助社
114. 青衣盛康資源回收站
115. 元朗不是垃圾站
116. 可持續生活關注小組
117. 氣候變化關注小組
118. 社區零垃圾
119. 減廢生活關注組
120. 大埔社區學堂
121. 大埔不是垃圾站
122. 正澳
123. 將軍澳不是垃圾站

- 124. 西貢不是垃圾站
- 125. 染南不是垃圾站
- 126. 結束一桶專棄
- 127. 觀塘不是垃圾站
- 128. 減廢共學聯盟
- 129. 葵芳不是垃圾站
- 130. 自由黨港島南區支部
- \* 131. 李漢宗先生
- \* 132. 鄭俊鴻先生
- \* 133. 土地教育基金
- \* 134. 全港不是垃圾站
- \* 135. 羅先生

\* views given by written submission only



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

#### **Major views and suggestions raised by members on enhancing support for waste reduction and recycling and the Administration's responses**

##### Provision of space for recycling

Some members have suggested the Administration review the general space and facility requirements for the recovery of recyclables in the community. As only one Community Green Station ("CGS") will be set up in each district, there may not be enough space/facilities for resource recovery in the community. There is also a view that the development of local recycling facilities and systems should take priority over the implementation of the proposed municipal solid waste ("MSW") charging scheme ("proposed charging scheme").

2. The Administration has advised that other cities generally develop or improve such facilities and systems progressively concurrently with or after the launch of waste charging. If there is not sufficient space in a residential building/housing estate to place resource recovery facilities, the outreaching teams of the Environmental Protection Department ("EPD") will provide information on nearby facilities to the residents. The Administration has pointed out that there will be free collection services for waste plastics from non-commercial and non-industrial ("non-C&I") sources and food waste primarily from C&I sources under relevant pilot schemes. The Administration will also consider reviewing the procurement methods and contractual arrangements of waste management services, and will consider how to deepen the involvement of district organizations in the provision of those services.

##### Design and functions of refuse collection points

3. Some members consider that the scope of refuse collection points ("RCPs") should be expanded to include waste separation and invite non-governmental organizations ("NGOs") to participate in relevant pilot schemes. The Administration should also consolidate the resources of EPD and the Food and Environmental Hygiene Department ("FEHD") with a view to enhancing the provision of space and facilities for resource recovery, and incorporating resource recovery facilities into the project designs of new/reprovisioned RCPs.

4. The Administration has informed members that to complement the implementation of MSW charging, it plans to enhance recycling support at

RCPs subject to the actual conditions such as space availability. FEHD will carry out various improvement and upgrading measures at RCPs, including provision of more recycling bins ("RBs") outside RCPs as appropriate; relocation of existing recycling facilities to prominent locations outside RCPs; installation of signages of RCPs to facilitate easy identification by the public; provision of notice boards with information about waste reduction and recycling facilities in the vicinity; and hardware improvement works including lighting system. Apart from enhancing the recycling provision at RCPs, the Administration will also review and enhance the frequency of collection service of recyclables provided by recyclable collection contractors. As such, the Administration does not expect recyclables such as waste paper, metal and plastics will need to be temporarily stored in RCPs pending further transportation, especially food waste which may easily create hygiene and odour problems.

5. In addition to the above, in connection with FEHD's plan to construct a six-storey building at the junction between Hung Yuen Road and Hung Ping Road for re-provisioning of the existing RCP at Hung Tai Road, EPD has proposed to set up a Community Recycling Centre ("CRC") on the second floor of the proposed building, with reference to the operation mode of the existing CRCs. The proposed CRC will provide service to residents in the neighbourhood. In addition to receiving different types of recyclables from residents, the proposed CRC will provide a convenient platform for promoting waste reduction and recycling to the community.

#### Litter containers in public places

6. Members have expressed concern that MSW charging may give rise to free-riding behaviours, in particular abuse of litter containers ("LCs") in public places to evade the use of designated bags under the charging scheme. Some members are unconvinced that further revamping the design of LCs can adequately prevent abuse of LCs in public places after the introduction of MSW charging. In particular, the Administration should clarify the policy objectives of replacing LCs in public places by those with smaller openings.

7. The Administration points out that LCs placed in public places are for the pedestrians to dispose of street litter, but not for the disposal of trade waste or household waste. Currently, littering, including disposal of any waste (such as household waste) at the side or on top of LCs placed in public places or pleasure grounds, is already an offence under section 4(1) of the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132BK) and section 23(b) of the Pleasure Grounds Regulation (Cap. 132BC). Starting from June 2016, FEHD has introduced in batches newly-designed LCs with smaller openings for disposal of litter with a view to discouraging the public from

disposing household or trade waste in the LCs. Bigger warning notices are also affixed to LCs to publicize the messages that such waste should not be discarded at the side or on top of LCs. The general hygiene conditions on streets have generally been maintained following the implementation of the change. In fact, waste from this source only constitutes a small part of the total MSW generated in Hong Kong.

8. The Administration has further advised that with reference to the experiences in other cities, the implementation of waste charging scheme is usually accompanied by adjustments to the number and design of RBs and LCs in public places in order to discourage the abusive use of LCs to evade waste charges, and promote recycling. In this regard, the Steering Group on the Modification of Recycling and Refuse Collection Facilities in Public Places ("the Steering Group") has been set up in 2016 to review the design and distribution of RBs and LCs in public places in a more systematic manner to facilitate waste separation and reduction, as well as resource recovery in the community. The consultant engaged by the Steering Group has come up with the conceptual designs of the new RBs and LCs in public places and sought the views of frontline staff and staff associations for improvement. A public engagement will be conducted to further collect views of stakeholders for optimization of the designs. Apart from the changes in the design of RBs and LCs, the number of LCs in public places are being gradually reduced while that of RBs are being progressively increased according to the adjustment plan for meeting the targets by the time when MSW charging is planned to take effect.

#### Recycling bins

9. At present, there are more than 8 000 sets of RBs placed at public places, schools, country parks and public rental housing ("PRH") estates to facilitate the public to participate in source separation of waste and recycling. These RBs are managed by FEHD, the Leisure and Cultural Services Department, the Agriculture, Fisheries and Conservation Department, the Housing Department ("HD") and the Hong Kong Housing Society ("HKHS").

10. Members in general consider that RBs placed at public places are no longer an effective tool for public education on resource recovery. Moreover, the use of RBs in public places for collection of recyclables seems to go against the principle of "clean recycling", as the recyclables therefrom are often contaminated or mixed with other materials not suitable for recycling. The Administration should review, in consultation with property management company ("PMC") as appropriate, the design of RBs and arrangements for collection of recyclables from the bins. For resource recovery in the rural areas, some members have suggested that the Administration should adopt a new mode of operation leveraging on the neighbourhood relations in villages.

11. The Administration has advised that:
- (a) currently, the quantity of recyclables collected from RBs in public places is insignificant compared to other sources. The major reason is that members of the public do not normally carry a large amount of recyclables when they use these RBs;
  - (b) nevertheless, RBs in public places serve the important function of enhancing public awareness of waste separation and recovery. Due to the implementation of the RB initiative, the general public now have basic understanding of the major types of materials that can be recycled. RBs in public place also serve as convenient recyclables collection points for residents of single block buildings, rural areas and old districts with many "three-nil" buildings (i.e. buildings which do not have an owners' corporation or any form of owners'/residents' organizations or do not engage a PMC);
  - (c) as the proposed charging scheme is expected to give greater impetus to waste separation at source and recovery, it is envisaged that the quantity of recyclables collected from RBs will increase after the launch of the scheme; and
  - (d) in order to promote waste reduction and recycling as well as strengthen community recycling support, the Steering Group is tasked to review and make recommendations on, among other things, the design and distribution of RBs in public places.

#### Channels for collection of recyclables

12. Individual members have suggested that the Administration should:
- (a) evaluate the effectiveness of NGO collection points by comparing the quantities of recyclables recovered from the areas concerned before and after the setting up of those collection points, with a view to determining whether the Government or NGOs should play a bigger role in the collection of recyclables in the community in future;
  - (b) comprehensive analysis of the unit costs of the recyclables collected by different channels (i.e. NGO, private or government channels) with a view to identifying the most cost-effective modes of operation for resource recovery in Hong Kong; and

- (c) stipulate performance requirements in respect of the minimum quantities of recyclables collected/processed in a year under all relevant outsourced service contracts, and such performance requirements should be raised gradually after the implementation of the proposed charging scheme in view of the expected increase in the amount of recyclables to be recovered from the waste stream.

13. There is also a concern as to whether NGOs and private recycling shops will be in competition with each other for the collection of recyclables in the community.

14. The Administration advised that:

- (a) it has been developing more recycling facilities to cope with the expected increase in the quantity of recyclables to be recovered after the implementation of the proposed charging scheme and existing/new producer responsibility schemes ("PRSs") on various product categories. The provision of large-scale collection services for relevant recyclables through government contracts will be increased in tandem with the development of these facilities;
- (b) at the same time, NGO-operated collection points will be expected to serve as an important nexus of the collection network for recyclables in the community. The Administration has plans to expand the scale of such collection points through, among other things, regularizing the funding support for CRCs;
- (c) some NGOs have been engaging or collaborating with people who collect recyclables (such as scavengers) in the NGOs' recycling projects. In future, when the Administration appoints NGOs to operate some collection channels for recyclables, it will require the NGOs to establish collaboration networks in the relevant service areas; and
- (d) CRCs provide a channel for the collection of recyclables at the neighbourhood level, whereas private recycling shops can flexibly adjust their business models and/or service targets to adapt to market changes. CRCs and private recycling shops do not necessarily compete with each other for the collection of recyclables.

### Manpower for collection of recyclables

15. The Bills Committee has enquired about the estimated number of people currently employed for the collection of recyclables with breakdowns (a) by collection channels (e.g. projects/collection points under the Community Recycling Network ("CRN") and the Government's contracts for collection of recyclables from RBs at public places) and (b) by districts.

16. The Administration has advised that EPD only sets out the types of services to be provided by the contractors/funded organizations and the standards of service to be attained, etc. Apart from some contracts/funding projects which have specified the number of key staff (such as persons-in-charge of the projects/ managers), EPD's contracts/funding projects generally do not specify the total number of staff required to be employed by the contractors/funded organizations. The contractors/funded organizations should flexibly allocate resources in response to the service needs according to the actual operation requirements.

### Outreaching teams

17. Some members have raised concerns whether and how the outreaching teams can communicate effectively with various stakeholders. The Administration has advised that the outreaching teams will strive to establish and maintain a direct communication network with different stakeholders such as PMCs, cleaning workers, residents' organizations, District Council members and community representatives to render continuous support on promotion of waste reduction and recycling. To solicit the support of key stakeholders for the outreaching service, the outreaching teams have engaged HD, HKHS 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 services as well as educational/promotional activities. Subject to smooth establishment of the outreaching teams to a full strength of about 200 staff, the Administration plans 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.

18. According to the Administration, the pilot outreaching teams are experimenting with various approaches to establish effective communication channels with residents in buildings without owners' corporations, such as visiting their homes, distributing pamphlets through mailboxes, and getting in touch with them through other parties (e.g. the relevant waste collection/removal service providers and community groups that have frequent contact with them).

### Community Green Stations

19. The Bills Committee has requested the Administration to expedite the setting up of CGSs in all districts.

20. The Administration has advised that nine CGSs have commenced operation. Design and construction works of another two CGSs are underway. While the locations of the remaining seven CGSs have yet to be decided, the Administration will endeavour to expedite its work on identifying suitable sites for these CGSs.

### Regularization of funding support for Community Recycling Centres

21. The Bills Committee has enquired about the planned distribution of CRN collection points and the specific measures to be implemented to strengthen support for CRCs currently operated by NGOs, with a view to expanding the scale and upgrading the service quality of these CRCs. Some members suggested that performance targets/indicators should be set for CRN. Regarding the tendering arrangements after the regularization of funding support for CRCs, some members have raised concern that NGOs currently operating CRCs may be crowded out by more resource-rich private operators.

22. The Administration has advised that at present, there are 17 CRCs and two Community Recycling Vehicles ("CRVs") in Hong Kong. They have established networks for collection of recyclable materials at the neighbourhood level and play an active role in promoting waste reduction and recycling in the local community. CRCs and the CRVs are currently operated by NGOs in the form of projects funded by the Environment and Conservation Fund on a time-limited basis. The Administration has advised that the current priority is to establish a CRC in each of the districts currently without any CRC. The Administration will consider, under the ongoing review of CRN, how to better utilize resources for enhancing recycling support in the community. There is no fixed plan at this stage for the number of CRN collection points in each district. The Administration intends to make use of part of the additional recurrent resources announced in the 2018 Policy Address to regularize funding support for the ongoing and sustainable operation of the district-based CRCs and CRVs. After regularization of funding support for CRCs, the Administration will allocate more resources to broaden the scope and enhance the service quality of the CRCs, such as increasing the types of recyclables to be collected (for examples, rechargeable batteries, fluorescent lamps and tubes and small electrical appliances), the number of days of services, and mobile collection points, as well as extending the CRCs' daily business hours so as to facilitate the public to participate in more diversified waste reduction and recycling activities.

23. The Administration has further advised that it will consider stakeholders' views on strengthening support for CRCs. Moreover, the new outreaching teams being set up under EPD will promote collaboration between CRCs and residents in resource recovery. The target for developing CRN is to reinforce its function as an important nexus of the collection network for recyclables in the community. The Administration will explore the feasibility of setting performance indicators in respect of the quantity of recyclables recovered through CRN.

24. The Bills Committee has noted that following the established practice of the Government, EPD will engage non-profit making organizations to operate all CRCs through open tender. Tenderers with relevant operational experience and local networks will score additional marks in the tender assessment. The tendering procedure for CRC contracts will be streamlined as far as possible to facilitate the applications by NGOs.

#### Producer Responsibility Schemes

25. The Bills Committee has enquired about the legislative and implementation timetables for taking forward new PRSs on various product categories and banning the use of disposable plastic tableware. Some members urge the Administration to implement PRS on packaging materials so that producers or suppliers of the products will be required to shoulder more responsibility for reducing waste.

26. The Administration has advised that it has been progressively implementing PRS to promote resource recovery and circular economy. The PRS on waste electrical and electronic equipment commenced operation has come into full operation on 31 December 2018. In parallel, the Administration is also implementing a PRS on glass beverage containers progressively to promote recovery of the glass materials. Glass Management Contractors have been appointed to provide regional collection and treatment services for the Hong Kong Island (including Islands District), Kowloon and the New Territories regions. The Administration is also preparing the relevant subsidiary legislation on the operational details of the PRS on glass beverage containers.

27. As regards plastic product containers, the Administration has commissioned a feasibility study in October 2017. Taking into account the recommendations of the consultant, the Administration has decided to press ahead with the introduction of a PRS targeting plastic beverage containers, which accounts for 60% of the overall waste plastic containers disposed of in Hong Kong. The Administration plans to consult the public on the proposed way forward in 2020. The Administration is also preparing to implement a pilot scheme on the application of reverse vending machines ("RVMs").



Meanwhile, the Administration will further review the effectiveness of the Plastic Shopping Bag ("PSB") Charging Scheme in reducing the use and subsequent disposal of PSBs.

28. The Administration has pointed out that the meaning of "waste producer" can encompass all parties along a supply chain, including manufacturers and end-users. It is expected that the proposed charging scheme will enhance consumers' awareness in choosing environment-friendly products with fewer packaging materials, thereby driving manufacturers/suppliers to reduce waste in the manufacturing and packaging of products.

#### Controlling / banning disposable plastic tableware

29. The Administration has also advised that a study on the feasibility, scope and mechanism of controlling or banning disposable plastic tableware will be conducted. It is expected that the study will be completed in 2020. In the meantime, the Administration has been working with the food and beverage industry to promote reducing the use of disposable plastic tableware. The Administration has noted that while some other cities have proposals for banning or regulating the use of disposable plastic tableware, it is a recent development and has no direct linkage to the launch of waste charging schemes in those cities.

#### Reverse vending machines for plastic beverage containers

30. The Bills Committee has enquired about the details of the relevant pilot scheme, including the number of RVMs to be installed, outlets for the collected plastic beverage containers and the amount of rebate to be provided for each container.

31. According to the Administration, its plan is to place a total of 50 to 60 RVMs in phases at different locations or facilities to assess their performance and effectiveness in collecting waste plastic beverage containers, as well as the operational arrangements for storing and transporting the plastics bottles collected to local recyclers for further processing. Through the pilot scheme, the Administration will also assess the response of the public to the incentive provided through RVMs.

#### Treatment of food waste

32. Members suggest that the Administration should promote the separation of dry and wet household waste at source more proactively, such as by providing food waste grinders (which shredded food waste into small pieces for disposal through the sewerage system) in new public housing estates. There is also a

suggestion that the Administration should make reference to the practices of Shanghai to mandate source separation of dry and wet waste.

33. The Administration has advised that it has a road map for food waste management. It will continue to expand Hong Kong's food waste treatment capacity, which is a prerequisite for the introduction of arrangements for recovering source-separated food waste from the community on a larger scale. In addition, the installation of food waste facilities, including food waste grinders, in residential buildings is being explored. The Administration observes that compared with Shanghai, Hong Kong's treatment capacity for source-separated dry and wet waste is rather limited. The Administration therefore considers it premature at this stage to implement mandatory source separation of dry and wet waste.

34. The Bills Committee has sought information on the estimated amount of domestic food waste to be treated by the prospective Organic Resources Recovery Centre Phase 2 ("ORRC2") and ORRC3 after the facilities have become fully operational, and the proportion of such domestic food waste to all domestic food waste generated in Hong Kong.

35. The Administration has advised that it is planning to set aside part of the treatment capacity of ORRC1 and Tai Po Sewage Sludge/Food Waste Co-digestion Trial Plant for treating up to 50 tonnes per day ("tpd") of food waste (out of a total available capacity of 250 tpd by then). The treatment capacity for domestic food waste will be increased to 200 tpd after ORRC2 and Sha Tin Sewage Sludge/Food Waste Co-digestion Trial Plant have commissioned in 2022 (out of a total available capacity of 600 tpd by then). Subject to the progress of development of further food waste recycling facilities including ORRC3 and beyond as well as more Sewage Sludge/Food Waste Co-digestion plants, the Administration anticipates that Hong Kong's overall food waste treatment capacity will be increased to 1 800 tpd around mid-2030s. This will amount to 50% of domestic food waste generated at present. Depending on the progress of and experience gained from the collection of food waste from both the C&I sector and the domestic sector, the Administration's plan is to use most of such further food waste treatment capacity to handle domestic food waste.

#### Reduction and separation of waste at source

36. Some members have suggested that, apart from levying charges on disposal of MSW, which is a punitive measure, the Administration should also consider offering rewards (such as free designated bags) to encourage the public to practice waste reduction and separation.

37. The Administration has advised that currently, people who bring certain quantities of recyclables to some collection points in CRN and CGSs will receive rewards such as daily commodities. With the implementation of the proposed charging scheme, it will comprehensively review the reward systems adopted at recyclables collection outlets such as CRCs. It will also study whether there are better ways to incentivize resource recovery, such as installing RVMs to facilitate the recovery of plastic beverage containers through the provision of rebates.

38. The Administration has advised that experiences in other places have proven that quantity-based waste charging can promote the further development of recycling chains. It will continue to develop recycling infrastructure to reduce food waste (which constitutes a major part of MSW) and support the implementation of PRSs on various product categories. As regards the suggestion of providing portable equipment (such as hanging bags that can be hung on a wall or door) to the public for free to facilitate separation and recovery of household waste, the Administration has indicated that it will explore the feasibility of the suggestion and/or collaborating with other organizations on the initiative.

#### Collaboration among relevant departments and authorities

39. The Bills Committee has stressed the importance of collaboration among relevant departments and authorities (including EPD, FEHD, HD and the Hong Kong Housing Authority ("HKHA")) in the implementation of the proposed charging scheme and related complementary measures.

40. The Administration has advised that a Municipal Solid Waste Reduction Office will be set up under EPD after the passage of the Bill to coordinate the preparation and implementation of the proposed charging scheme, including collaboration with FEHD. EPD has been collaborating with HKHA in organizing the Programme on Source Separation of Wastes in PRH estates. Moreover, EPD has been partnering with several organizations to launch trial projects in public housing estates, rural areas, shopping malls and the catering trade to allow participants to get first-hand experience of quantity-based charging arrangements, which can enhance the participants' understanding of source separation of waste.

#### Development of the recycling industry

41. The Bills Committee has asked whether the Development Bureau ("DEVB") has cooperated with the Environment Bureau ("ENB")/EPD in promoting the development of the local recycling industry through land use planning. There is a suggestion that sites for recycling uses should be located

near waste disposal facilities, so that the overall transportation cost of recyclables can be reduced. Some members consider that the Administration should directly subsidize local recycling businesses that are currently unprofitable, or provide price subsidies in respect of recyclables.

42. The Administration has advised that the proposed free collection services for waste plastics from non-C&I sources and food waste from C&I sources under pilot schemes will help reduce transportation costs and improve the profitability of the relevant recycling businesses; and the additional resources will be further increased to no less than \$800 million to \$1 billion from the financial year when MSW charging is to be implemented, which will be able to support the expansion of the scope and geographical coverage of the complementary measures. Through public education and publicity efforts, the Administration will also continue to promote proper waste separation and "clean recycling" practices, which can help enhance the economic values of local recyclables.

43. The Administration has pointed out that representatives of DEVB are involved in the ongoing consultancy study commissioned by ENB on the land requirements of the recycling industry. As regards the provision of price subsidies in respect of recyclables, the Administration considers that it may not bring about waste reduction, which is one of the objectives of the proposed charging scheme.

#### Impact on scavengers

44. Some members have raised concerns that the implementation of the proposed charging scheme will pose legal risks to scavengers, and asked whether the Administration will render more support to them, such as providing space for storage of equipment (e.g. handcarts) and separation of recyclables from other waste. There is also a suggestion that the Administration should launch a programme for CRCs to offer monetary rewards to scavengers to incentivize the collection of recyclables of low economic value

45. The Administration has advised that whether enforcement actions will be taken against suspected activities that contravened the said proposed section will depend on the actual facts and circumstances of individual cases. The major challenge facing scavengers is the fluctuation in the market prices of recyclables leading to unstable incomes. It is expected that with the implementation of the proposed charging scheme and other measures to support recycling, there will be a general rise in the market value of local recyclables, which can help boost the incomes of scavengers. The Administration will work with NGOs in enhancing scavengers' understanding of the requirements under the proposed MSW charging scheme. The Administration has also

indicated that it will require the contractor(s) for the pilot scheme on free collection service for waste plastics from non-C&I sources to engage green groups and/or people who are currently involved in the collection of recyclables.

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

**Manpower resources for implementation and enforcement of  
the proposed municipal solid waste charging scheme**

Enforcement manpower

Members have raised concern about whether the Administration will have sufficient manpower to enforce the proposed municipal solid waste ("MSW") charging scheme and reject non-compliant waste ("NCW") at waste reception points. The Administration has advised that having regard to some 22 000 waste reception points and considerable waste reception points located at individual floors of over 45 000 buildings across the territory, and for efficient use of manpower resources, its plan is to adopt a risk-based approach targeting at the list of black spots based on complaints and intelligence. The Environmental Protection Department ("EPD") and the Food and Environmental Hygiene Department ("FEHD") may, according to preliminary estimation, require a few hundred enforcement staff. In light of the possible circumstances which may arise during the initial implementation of MSW charging, the Administration will consider recruiting post-retirement civil servants with enforcement experience to facilitate flexible manpower deployment. The actual manpower requirements will be reviewed and ascertained having regard to the public response to public education and publicity work; the effectiveness of various waste reduction and recycling initiatives (including the establishment of new outreaching teams to provide on-site assistance and the pilot schemes for the provision of free collection service in respect of waste plastics from non-commercial and non-industrial sources as well as food waste; some of the Government and public organisations, schools and private housing estates, etc.; and the effectiveness of FEHD's stepped-up efforts to deal with littering and fly-tipping problems (such as the effectiveness of applying innovation and technology initiatives to facilitate compliance).

2. The Administration has further advised that since 2017, FEHD has set up about 35 dedicated enforcement teams ("DETs") to tackle illegal dumping at black spots all over the territory. FEHD has set up five additional DETs in 2020-2021 (each comprising five frontline enforcement officers) to step up the enforcement work targeting fly-tipping. Further reinforcement will be considered having regard to actual need on the ground and the progress made. The enforcement actions in this regard will help improve the local environmental hygiene while at the same time facilitate the necessary behavioural changes among the public in complying with the charging requirement.

### Non-enforcement manpower

3. According to the Administration, the introduction of MSW charging is estimated to necessitate the creation of around 60 civil service posts in EPD and FEHD. These 60 posts are non-enforcement staff. Being the administration authority of the proposed MSW charging, EPD will require substantial manpower to undertake a whole range of new and heavy responsibilities. These include developing the charging infrastructure required for MSW charging, as well as mapping out and administering the charging arrangements such as engaging contractors for the manufacturing, inventory and distribution of designated bags/designated labels at 4 000 odd authorized sales outlets and to manage such contracts; developing registration and billing systems for charging private waste collectors by way of "gate-fee" at refuse transfer stations and landfills; and launching a major publicity and public education campaign to prepare the community for the introduction of MSW charging.

4. The Administration has also advised that around 30 to 35 outreaching teams have been created, involving a total of about 200 posts. The new outreaching teams established comprise permanent civil service posts and non-civil service contract staff.

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

**Interdepartmental cooperation on enforcement**

Interdepartmental collaboration on enforcement

The Bills Committee has urged the Administration to strengthen collaboration among relevant departments and authorities for the implementation/enforcement of the proposed municipal solid waste ("MSW") charging scheme ("the proposed charging scheme") and the Construction Waste Disposal Charging Scheme.

2. The Administration has advised that the Environmental Protection Department ("EPD") is primarily responsible for combating illegal land filling and fly-tipping of construction and demolition ("C&D") waste; while the Food and Environmental Hygiene Department ("FEHD") is primarily responsible for combating illegal refuse dumping. The surveillance camera systems installed by EPD and FEHD will cover over 100 and over 300 locations respectively under the current plans. The Administration has stressed that an interdepartmental coordination mechanism has been put in place for combating illegal land filling and fly-tipping of C&D waste and sharing of relevant intelligence on matters of mutual concern. Moreover, EPD has regular liaison meetings with FEHD and other relevant government departments to strengthen enforcement and review the list of C&D waste land filling and fly-tipping black spots.

3. In order to step up efforts in combating offences of illegal land filling and fly-tipping of C&D waste, as of December 2019, EPD has installed surveillance camera systems at about 130 locations as well as gradually upgraded the capacities and mobility of the surveillance camera systems with smart technology and night vision.

4. To curb illegal dumping of refuse through targeted surveillance and enforcement actions, FEHD has also installed surveillance cameras at 175 blackspots of illegal refuse dumping in the territory, and plans to extend the scheme in consultation with District Councils ("DCs"). Likewise, FEHD will progressively increase the number of locations for installation of surveillance cameras to over 300 with consideration given to locations and priorities proposed by DCs.



5. To better utilize government resources for installing surveillance cameras at different black spots, EPD and FEHD have already established a regular reporting mechanism to share the latest installation locations of surveillance camera system and public concerns on illegal waste disposal to facilitate effective planning of enforcement strategy. EPD will strengthen the collaboration with other relevant government departments through regular meetings and information sharing, to enhance effectiveness in combating illegal land filling and fly-tipping of C&D waste.

#### Enforcement at housing estates managed by the Housing Authority

6. Some members have expressed concerns about how the proposed charging scheme can be enforced at public rental housing ("PRH") estates managed by the Housing Authority ("HA") given that HA or the Housing Department ("HD") will not be responsible for taking enforcement actions. They have also enquired whether there will be any plan to allocate or seek additional resources to install additional surveillance camera systems in those PRH estates for preventing aggravation of fly-tipping in general and monitoring compliance situations after the implementation of the proposed charging scheme.

7. The Administration has advised that it has been all along maintained close liaison with HA and a briefing was given to the Subsidised Housing Committee (SHC) of HA on the overall MSW charging proposal and arrangements. SHC took note of the policy directions and regulatory arrangements of implementing MSW charging, and indicated its support for MSW charging with a view to promoting waste reduction. After the passage of the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018, HA will consult the SHC of HA on the implementation details of MSW charging at PRH estates having regard to the passed legal provisions and requirements. HA will also provide guidelines to estate management staff including those of property management companies and cleaning service contractors to ensure that they understand how to handle waste in accordance with legal requirements. Being the owners/managers of PRH estates, HA will step up patrols and public education (for example, by placing notices and banners against littering and disposal of sundry items, and organizing publicity activities), and proactively cope with the relevant departments' enforcement action. In compliance with the Personal Data (Privacy) Ordinance (Cap. 486), HA will also consider installing additional surveillance camera systems, if necessary. Moreover, HA implements the Marking Scheme for Estate Management Enforcement (the Marking Scheme) in PRH estates. If estate residents litter, dispose of waste indiscriminately in public areas including public areas on individual floors, obstruct corridors or stairs with sundry items rendering cleaning difficult or dump decoration debris indiscriminately at public

areas, HA will allot penalty points to the offending tenants and issue Fixed Penalty Notices to those who committed littering pursuant to the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570). HA will continue to take enforcement action under the Marking Scheme to promote among the residents a sense of civic responsibility in order to maintain a clean and hygienic estate environment.

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

**Application and effectiveness of surveillance camera systems  
to deter fly-tipping**

Division of work between departments in the application of surveillance camera systems

The Environmental Protection Department ("EPD") is responsible for installing surveillance camera systems at fly-tipping black spots of construction and demolition waste ("C&D waste"),<sup>1</sup> and the Food and Environmental Hygiene Department ("FEHD") for installing surveillance camera systems at fly-tipping black spots of household waste.

2. Under the existing laws, both EPD and FEHD are empowered to take enforcement actions against illegal waste disposal activities. Both departments will follow up suspected fly-tipping activities spotted via their respective surveillance camera systems regardless of the type(s) of waste involved.

Location of surveillance camera systems

3. The list of fly-tipping black spots for installation of surveillance camera systems is drawn up with reference to, among other things, public complaints and intelligence gathered from inspections.

4. EPD and FEHD have been communicating with relevant District Councils ("DCs") on the locations of new surveillance cameras before installation.

5. While surveillance camera systems are/will be installed at fly-tipping black spots to deter fly-tipping activities, the Administration will take other actions (such as inspections and ambush operations) to enforce against disposal of non-compliant waste ("NCW") under the risk-based enforcement approach to be adopted for the proposed municipal solid waste ("MSW") charging scheme ("the proposed charging scheme").

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<sup>1</sup> In response to members' enquiries, the Administration has provided information on the average cost of installing a surveillance camera system for combating C&D waste and the average time taken by the Administration to clear fly-tipped C&D waste after it has received information on a fly-tipping case (items (b) and (c) of LC Paper No. CB(1)249/19-20(02) issued for the meeting of the Bills Committee on 18 December 2019).

6. Although the fly-tipping black spots at which surveillance cameras will be installed by EPD and FEHD do not include public rental housing estates, the Housing Authority/Housing Department ("HA/HD") has adopted various measures to combat fly-tipping. The monitoring and enforcement duties in respect of the proposed charging scheme will be handled by EPD and FEHD. HA/HD will not be tasked with taking enforcement actions against NCW disposal within the HA-managed housing estates.

#### Technologies and features of surveillance camera systems

7. All new surveillance cameras installed since 2019 by EPD have a mobility feature to enable their quick redeployment whereas the surveillance cameras of older models do not have this feature.

8. Smart technology has been adopted in newly-installed surveillance camera systems of FEHD. EPD also plans to introduce smart technology to its surveillance camera systems progressively to enable round-the-clock monitoring of some fly-tipping black spots. The Administration considers that the surveillance camera systems can provide intelligence for planning targeted ambush operations and collating evidence (e.g. images of registration marks of vehicles involved in suspected fly-tipping of C&D waste) to initiate prosecution against offenders.

9. Both EPD and FEHD are planning to expand the use of surveillance cameras to deter fly-tipping at black spots in public places. The Administration has stressed that there is no direct relationship between the implementation of the pilot scheme on Multi-functional Smart Lampposts in another context and the surveillance camera systems deployed by EPD and FEHD.

10. The Administration will actively consider the application of more information technology initiatives to support enforcement of the proposed charging scheme. The Environment and Conservation Fund has been supporting a number of community involvement projects for MSW charging. In a project organized by the Business Environment Council, the radio frequency identification ("RFID") technology is deployed to collect waste generation data on some commercial premises. However, the RFID technology is not mature and cost effective enough for application on designated bags or designated labels. Yet, the Administration will continue to monitor the development of the technology with a view to identifying RFID technology's suitable uses under the proposed charging scheme.

Use of data collected by surveillance camera systems

11. Prior to the installation of surveillance camera systems, EPD and FEHD communicate with relevant local stakeholders/DCs to discuss effective measures against fly-tipping activities at relevant locations. To further protect privacy of the public, particularly on matters related to the installation of surveillance camera systems and the use, storage and disposal of footages, EPD and FEHD have adopted appropriate privacy and data security measures in strict compliance with the requirements of Personal Data (Privacy) Ordinance (Cap. 486), and with reference to the Guidance on CCTV Surveillance and Use of Drones published by the Office of the Privacy Commissioner for Personal Data, including:

- (a) the surveillance camera systems are not equipped with facial recognition function. The cameras of the systems only face and shoot public places, and do not capture nearby domestic premises;
- (b) the surveillance camera systems only focus on small and specific area of illegal waste disposal locations;
- (c) notices or banners are posted in conspicuous places, indicating that the areas are under surveillance cameras' monitoring to let the public know that they have entered the surveillance areas; and
- (d) all footages captured will be used and stored by the enforcement officers of the EPD and the FEHD in accordance with the legal prosecution procedures. After completing the relevant legal procedures or when the storage is no longer required, the footages will be deleted.

12. The contractors of EPD and FEHD are responsible for the installation, operation, maintenance and repair of the surveillance camera systems, and shall follow and comply with the contractual requirements on protection of personal data, operation, installation and information technology security, etc. The staff of EPD and FEHD will visit the locations where the surveillance camera systems are installed from time to time, in order to inspect and monitor the performance of the contractors to ensure that the operation of the surveillance camera systems complies with the requirements of relevant law and data protection principles.

13. EPD and FEHD do not authorize any other government departments to monitor the real-time footages through their surveillance camera systems. If other Government departments request EPD or FEHD to provide video footages, the two departments will act in strict accordance with the principles of the

Personal Data (Privacy) Ordinance in carefully examining and considering individual requests on a case-by-case basis, having regard to the facts of each case, including reviewing whether the relevant uses are within the scope of the exemptions prescribed in the above-mentioned Ordinance, and seeking legal advice where necessary.

14. As regards the concern whether a video clip showing the appearance of a fly-tipper recorded by a surveillance camera system will constitute sufficient evidence for prosecution, the Administration has advised that:

- (a) fly-tipping black spots are mostly inconspicuous places with poor lighting, and fly-tipping activities are usually conducted at night time. Therefore, surveillance camera systems at the black spots generally cannot clearly capture the appearances of individual fly-tippers. That said, they are able to clearly capture vehicle registration marks even at night time. Such images have been successfully used in prosecution actions against illegal disposal of C&D waste by vehicles;
- (b) according to past cases of prosecution, even if the appearance of an individual is clearly captured in a video clip, the video clip itself is not expected to constitute sufficient evidence. Other evidence, such as that from a witness, is normally required to establish that the accused has committed the alleged crime; and
- (c) in cases where individuals repeatedly dispose of small amounts of waste in an unlawful manner, the surveillance camera systems can assist in the analyses of illegal disposal patterns, and the offenders will be prosecuted after they are caught on the spot during ambush operations.

#### Effectiveness of surveillance camera systems

15. As advised by the Administration, the amount of C&D waste illegally disposed of in public places and on Government lands cleared by the Government in 2019 was significantly reduced by 58% as compared with 2017. This shows signs of improvement by the installation of surveillance camera systems and stepped-up enforcement efforts which have helped reduce the illegal disposal of C&D waste.

16. According to the footages captured by surveillance camera systems, FEHD issued 265 and 799 summons in 2018 and 2019 respectively to the owners of the vehicles used for illegal disposal of waste, reflecting a year-on-year increase of 200%. The hygiene conditions of the fly-tipping locations have been greatly improved since the implementation of the surveillance camera scheme. Meanwhile, with the aid of surveillance cameras, EPD made 186 and 199 successful prosecutions in 2018 and 2019 respectively against illegal waste disposal on Government lands, which represented a year-on-year increase of 7%.

17. EPD regularly evaluates the effectiveness of its surveillance camera systems and conducts analyses of the trends of C&D waste fly-tipping activities, with a view to reviewing the locations for the installation of surveillance cameras. Moreover, meetings between EPD and nine relevant government departments are held at least twice a year for sharing intelligence and information related to illegal C&D waste disposal.

18. FEHD will consider installing a camera at another illegal dumping black spot on the list and reshuffle recording services if significant improvement in the environmental hygiene conditions of a black spot has been observed sometime after the installation of a surveillance camera. The camera will remain at the original location but will cease recording.