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Tel : 3919 3308
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From : Clerk to the Legislative Council
To : All Members of the Legislative Council

Council meeting of 25 August 2021

**Proposed amendments to
the Waste Disposal (Charging for Municipal Solid Waste)
(Amendment) Bill 2018**

Further to LC Paper No. CB(3) 872/20-21 issued on 16 August 2021, the President has given permission for the Secretary for the Environment to move amendments to the captioned Bill, subject to the Bill receiving Second Reading.

2. As directed by the President, the proposed amendments are attached for Members' consideration.

(Vincent CHAN)
for Clerk to the Legislative Council

Encl.

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

Committee Stage

Amendments to be moved by the Secretary for the Environment

<u>Clause</u>	<u>Amendment Proposed</u>
3(3)	By deleting the proposed definitions of <i>private waste vehicle</i> , <i>public waste vehicle</i> , <i>waste collection officer</i> and <i>waste vehicle</i> .
3(3)	By adding in alphabetical order to the proposed definitions— “ <i>Government-employed waste handler</i> (政府所僱廢物處理員) means a person who— (a) is employed by the Government; and (b) carries out the duty of loading municipal solid waste onto a waste vehicle in Government service or moving municipal solid waste at a refuse collection point; <i>waste vehicle in Government service</i> (政府用廢物車輛) means a vehicle (whether or not equipped with a device designed for compacting waste carried on the vehicle) that is being used by, or on behalf of, the Director of FEH for removing municipal solid waste and disposing of it at a scheduled facility; <i>waste vehicle in private use (with compactor)</i> (設有壓縮裝置非政府用廢物車輛) means a vehicle (other than a waste vehicle in Government service) that— (a) is being used for removing municipal solid waste and disposing of it at a scheduled facility; and (b) has an enclosed compartment equipped with a device designed for compacting waste within the compartment; <i>waste vehicle in private use (without compactor)</i> (不設壓縮裝置非政府用廢物車輛) means a vehicle (other than a waste vehicle in Government service) that— (a) is being used for removing municipal solid waste and disposing of it at a scheduled facility; and

(b) is not equipped with a device designed for compacting waste carried on the vehicle;”.

4 In the proposed section 20K(1)(b), by adding “in Government service or a waste vehicle in private use (with compactor)” after “waste vehicle”.

4 In the proposed section 20K(2)(a), by deleting “the Director of FEH” and substituting “a Government-employed waste handler”.

4 By deleting the proposed section 20K(2)(b) and substituting—

“(b) a person who—

(i) is not a Government-employed waste handler; and

(ii) is acting in the course of—

(A) providing removal services at a refuse collection point; or

(B) providing removal services by a waste vehicle in Government service or a waste vehicle in private use (with compactor).”.

4 By deleting the proposed section 20L(1) and substituting—

“(1) A person who—

(a) is not a Government-employed waste handler; and

(b) is acting in the course of—

(i) providing removal services at a refuse collection point; or

(ii) providing removal services by a waste vehicle in Government service or a waste vehicle in private use (with compactor),

commits an offence if the person deposits, or causes or permits to be deposited, any non-compliant waste at the refuse collection point or onto the vehicle.”.

4 In the proposed section 20M(1)(a), by deleting “waste collection officer” and substituting “Government-employed waste handler”.

4 By deleting the proposed section 20M(1)(b) and substituting—

“(b) a person who—

- (i) is not a Government-employed waste handler; and
- (ii) is acting in the course of—
 - (A) providing removal services at a refuse collection point; or
 - (B) providing removal services by a waste vehicle in Government service or a waste vehicle in private use (with compactor).”.

4 By deleting the proposed section 20M(2) and substituting—

“(2) However, subsection (1) does not apply to an act done by—

- (a) a Government-employed waste handler; or
- (b) a person who—
 - (i) is not a Government-employed waste handler; and
 - (ii) is acting in the course of—
 - (A) providing removal services at a refuse collection point; or
 - (B) providing removal services by a waste vehicle in Government service or a waste vehicle in private use (with compactor).”.

4 By deleting the proposed sections 20N and 20O.

4 In the proposed section 20P(3)(b)(i), by deleting “vehicle that is not a waste vehicle” and substituting “waste vehicle in private use (without compactor)”.

4 In the proposed section 20Q(1), by deleting “, 20N, 20O”.

4 In the proposed section 20Q(1), (2) and (3), by deleting “prove” and substituting “establish”.

4 In the proposed section 20Q(3)(a), by adding “, whether because it is reasonably suitable for recycling or otherwise” after “facility”.

4 In the proposed section 20R, by deleting “, 20O”.

4 In the proposed Part IVB, in Division 2, by adding—

“20RA. Exemption from section 20K, 20L or 20M granted on application

- (1) If satisfied that it is reasonable to do so, the Director may, on application by a person (*applicant*), exempt any person from section 20K(1), 20L(1) or 20M(1) in relation to any deposit or delivery of municipal solid waste that is collected—
 - (a) for or on behalf of the Government; or
 - (b) in the course of providing service for collecting material that is reasonably suitable for recycling.
- (2) An application under subsection (1) must be made in the form specified by the Director.
- (3) The Director must, by written notice, inform the applicant of—
 - (a) the Director’s decision to grant, or refuse to grant, the exemption; and
 - (b) if the Director refuses to grant the exemption—the reason for the refusal.
- (4) An exemption granted under subsection (1) may be subject to any condition specified by the Director.
- (5) An exemption granted under subsection (1) is valid for a period specified by the Director and may be renewed by the Director.
- (6) The Director may revoke an exemption granted under subsection (1) if—
 - (a) in the application for the exemption, the applicant provided any information that was false or misleading in a material particular;
 - (b) any condition specified under subsection (4) for the exemption is contravened; or
 - (c) the Director is satisfied that there is no longer any justification for the exemption.
- (7) If an exemption is revoked under subsection (6), the Director must, by written notice, inform the applicant of the revocation and the reason for it.

20RB. Exemption from section 20K, 20L or 20M granted on Director's own initiative

- (1) Subject to subsection (2), the Director may, on the Director's own initiative, exempt any person or class of persons (*exempted person*) from section 20K(1), 20L(1) or 20M(1).
- (2) The Director must not grant an exemption under subsection (1) unless the Director is satisfied that—
 - (a) the exemption is necessary for public safety, environmental hygiene or environmental protection; or
 - (b) due to exceptional circumstances—
 - (i) it is impracticable for the person or the class of persons to comply with section 20K(1), 20L(1) or 20M(1); or
 - (ii) it is unreasonable to expect such compliance.
- (3) The Director must inform the exempted person of the Director's decision to grant the exemption—
 - (a) by written notice; or
 - (b) if a written notice is impracticable in the circumstances—in a way that the Director considers appropriate.
- (4) An exemption granted under subsection (1) may be subject to any condition specified by the Director.
- (5) An exemption granted under subsection (1) is valid for a period specified by the Director and may be renewed by the Director.
- (6) The Director may revoke an exemption granted under subsection (1) if—
 - (a) any condition specified under subsection (4) for the exemption is contravened; or
 - (b) the Director is satisfied that there is no longer any justification for the exemption.
- (7) If an exemption is revoked under subsection (6), the Director must inform the exempted person of the revocation and the reason for it—

- (a) by written notice; or
- (b) if a written notice is impracticable in the circumstances—in a way that the Director considers appropriate.”.

4 In the proposed section 20X(1)(b), by deleting “public waste vehicles” and substituting “waste vehicles in Government service”.

4 In the proposed section 20X(2), by deleting “private waste vehicles” and substituting “waste vehicles in private use (with compactor)”.

4 In the proposed section 20Y(1), by deleting “public waste vehicle” and substituting “waste vehicle in Government service”.

4 In the proposed section 20Y(2), by deleting “private waste vehicle” and substituting “waste vehicle in private use (with compactor)”.

4 In the proposed section 20Y(3), by adding “in Government service or a waste vehicle in private use (with compactor)” after “waste vehicle”.

4 In the proposed section 20Y(4), by deleting “prove” and substituting “establish”.

4 In the proposed section 20Z(1), by deleting “public waste vehicle” and substituting “waste vehicle in Government service”.

4 In the proposed section 20Z(2), by deleting “private waste vehicle” and substituting “waste vehicle in private use (with compactor)”.

4 In the proposed section 20Z(4), by deleting “prove” and substituting “establish”.

6 By deleting “20N, 20O,”.

New By adding—

“14A. Sections 4A, 4B and 4C added

After section 4—

Add

“4A. Exemption from section 4 granted on application

- (1) Subject to section 4C, the Director may, on application by a person (*applicant*), exempt any person from section 4(1) for a period that the Director considers appropriate.
- (2) An application under subsection (1) must be made in the form specified by the Director.
- (3) The Director must, by written notice, inform the applicant of—
 - (a) the Director’s decision to grant, or refuse to grant, the exemption; and
 - (b) if the Director refuses to grant the exemption—the reason for the refusal.
- (4) An exemption granted under subsection (1) may be subject to any condition specified by the Director.
- (5) The Director may revoke an exemption granted under subsection (1) if—
 - (a) in the application for the exemption, the applicant provided any information that was false or misleading in a material particular;
 - (b) any condition specified under subsection (4) for the exemption is contravened; or
 - (c) the Director is satisfied that there is no longer any justification for the exemption.
- (6) If an exemption is revoked under subsection (5), the Director must, by written notice, inform the applicant of the revocation and the reason for it.

4B. Exemption from section 4 granted on Director’s own initiative

- (1) Subject to section 4C, the Director may, on the Director’s own initiative, exempt any person (*exempted person*) from section 4(1) for a period that the Director considers appropriate.
- (2) The Director must inform the exempted person of the Director’s decision to grant the exemption—
 - (a) by written notice; or

- (b) if a written notice is impracticable in the circumstances—in a way that the Director considers appropriate.
- (3) An exemption granted under subsection (1) may be subject to any condition specified by the Director.
- (4) The Director may revoke an exemption granted under subsection (1) if—
 - (a) any condition specified under subsection (3) for the exemption is contravened; or
 - (b) the Director is satisfied that there is no longer any justification for the exemption.
- (5) If an exemption is revoked under subsection (4), the Director must inform the exempted person of the revocation and the reason for it—
 - (a) by written notice; or
 - (b) if a written notice is impracticable in the circumstances—in a way that the Director considers appropriate.

4C. Supplementary provisions for sections 4A and 4B

- (1) The Director must not grant an exemption under section 4A(1) or 4B(1) unless the Director is satisfied—
 - (a) that—
 - (i) the exemption is necessary for public safety, environmental hygiene or environmental protection; or
 - (ii) due to exceptional circumstances—
 - (A) it is impracticable for the person to comply with section 4(1); or
 - (B) it is unreasonable to expect such compliance; and
 - (b) that the vehicle from which the person disposes of municipal solid waste is suitable for disposing of municipal solid waste at one or more scheduled facilities.

- (2) For the purposes of subsection (1)(b), a vehicle is suitable for disposing of municipal solid waste at a scheduled facility if—
 - (a) the vehicle is in good working condition;
 - (b) the vehicle is constructed in a way that does not—
 - (i) endanger the safety of any person at the facility;
 - (ii) create any nuisance, or any danger to health or the environment, arising from its activity in the facility; or
 - (iii) disrupt the operation of the facility or any collection, removal, transportation, transfer, reception or disposal (including treatment, reprocessing or recycling) of waste in the facility; and
 - (c) if the vehicle is equipped with a device described in section 3B of the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg. L)—it complies with the requirement in subsection (3) of that section.”.”.

- 33 In the proposed section 20(6), in the definition of *transition date*, by deleting “22” and substituting “14”.
- 34(3) In the proposed Part 1, in section 2(a), by deleting “vehicle other than a waste vehicle” and substituting “waste vehicle in private use (without compactor)”.
- 34(3) In the proposed Part 1, in section 2(b), by deleting “private waste vehicle” and substituting “waste vehicle in private use (with compactor)”.
- 34(3) In the proposed Part 1, in section 3(a), by deleting “vehicle other than a waste vehicle” and substituting “waste vehicle in private use (without compactor)”.
- 34(3) In the proposed Part 1, in section 3(b), by deleting “private waste vehicle” and substituting “waste vehicle in private use (with compactor)”.

- 34(3) In the proposed Part 1, in section 4(a), by deleting “vehicle other than a waste vehicle” and substituting “waste vehicle in private use (without compactor)”.
- 34(3) In the proposed Part 1, in section 4(b), by deleting “private waste vehicle” and substituting “waste vehicle in private use (with compactor)”.
- 36 By deleting the proposed items 12 and 13.
- 37(1) By deleting “12, 13,”.
- 37(2) By deleting “12, 13,”.