

LEGISLATIVE COUNCIL BRIEF

WASTE DISPOSAL (CHARGING FOR MUNICIPAL SOLID WASTE) (AMENDMENT) BILL 2018

INTRODUCTION

A At the meeting of the Executive Council held on 16 October 2018, the Council **ADVISED** and the Chief Executive **ORDERED** that the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 (Amendment Bill) at **Annex A** be introduced into the Legislative Council (LegCo) for the implementation of municipal solid waste (MSW) charging to drive behavioural changes in order to achieve waste reduction and contribute to carbon emission reduction.

JUSTIFICATIONS

Need for MSW charging

2. Quantity-based waste charging aims to create financial incentives to drive behavioural changes in waste generation and hence reduce overall waste disposal. In Seoul and Taipei City, waste disposal dropped by some 30% in the initial period after quantity-based waste charging was introduced. Having regard to extensive support received from the public consultation concluded in 2012, we have adopted the introduction of a waste charging scheme as a major tool of our waste reduction policy.

3. In fact, the need to reduce waste disposal has become ever more imminent and acute amidst the increasing amount of waste being disposed of at the landfills in recent years. In 2016, the daily disposal of MSW at landfills has reached 1.41 kg/person, representing a 1.4% increase from 2015. Despite the waste reduction and recycling measures we have implemented over the years, the disposal rate of MSW has increased by 11%¹ as compared to that in 2011. This is higher than those of other major cities and brings about huge burden to landfills. To combat global

¹ The annual average percentage increase of the MSW disposal rate for the period 2011 to 2016 was around 2.1%.

climate change, it is imperative to promote resources saving as well as waste reduction and recycling in order to reduce carbon emissions and facilitate a transformation to low-carbon living.

Proposed MSW charging framework

4. The Government engaged the Council for Sustainable Development (SDC) for an extensive public engagement exercise in 2013. Based on the implementation framework proposed by the SDC in 2014 and having regard to views from different stakeholders subsequently, we proposed 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 designated garbage bags/designated labels 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.

Charging by designated garbage bags/designated labels

5. In most circumstances, i.e. for MSW collected by the Food and Environmental Hygiene Department (FEHD) through refuse collection vehicles, refuse collection points (RCPs) and bin sites, as well as MSW collected by private waste collectors (PWCs) using refuse collection vehicles with rear compactors (RCVs), charging will be imposed through requiring the use of pre-paid designated garbage bags. The MSW will have to be properly wrapped in the designated garbage bags before disposal at the waste reception points of RCVs, RCPs and bin sites as well as at the waste reception chambers or areas on individual floors of multi-storey buildings. This charging mode 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.

6. The Government considers that the introduction of MSW charging could 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. Having considered relevant factors including affordability, public acceptability and effectiveness in driving behavioural changes, etc., the per-litre charge for designated garbage bags 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 designated garbage bag 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 charging level of designated garbage bags will be reviewed after the first three years of implementation.

7. The designated garbage bags will be of nine different sizes² from 3-litre up to 100-litre to cater for the need of different users³. On technical specifications, each designated garbage bag will bear an anti-counterfeit label to deter forgery. To facilitate monitoring and having regard to environmental protection considerations such as contribution to waste reduction and carbon saving, we propose to outsource the manufacturing of the designated garbage bags locally as far as practicable, while a separate contractor will be engaged for serving as the manufacturing, inventory and distribution coordinator for designated garbage bags. Making reference to the distribution network adopted in other cities, we propose 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. We will also invite supermarkets and convenience stores to sell the designated garbage bags in lieu of plastic shopping bags as a means to further promote re-use and waste reduction and achieve the effect of “one bag for dual purposes”.

8. Charging for oversized waste collected by the FEHD that cannot be wrapped into a designated garbage bag will be imposed through requiring the oversized waste to be affixed with a designated label before disposal. A uniform rate of \$11 per piece will be charged, which is estimated with reference to the largest size of designated garbage bag of 100 litres for waste producers. The inventory and distribution arrangements for designated garbage bags as set out in paragraph 7 above will be applicable to designated labels. The charging level of designated labels will also be reviewed after the first three years of implementation.

“Gate-fee”

9. For the remaining around 20% of the daily MSW collected by PWCs using waste collection vehicles without compactors (i.e. non-RCVs including grab lorries, demountable trucks, and tippers, etc.), a “gate-fee” will be charged based on the weight of MSW disposed of at the waste disposal facilities, i.e. landfills or refuse transfer stations (RTSs) under the

² 3-litre, 5-litre, 10-litre, 15-litre, 20-litre, 35-litre, 50-litre, 75-litre and 100-litre.

³ There are also 240-litre and 660-litre designated garbage bags which will only be sold for use by buildings with chutes such that frontline cleansing workers would not have to unnecessarily put non-compliant MSW collected at the bottom of the chutes into designated garbage bags for further disposal.

charging mode (b) as mentioned in paragraph 4 above. Such MSW comprises 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 designated garbage bag.

10. Currently, PWCs have to pay \$30⁴ per tonne for waste disposed of at urban RTSs⁵ but no charge at landfills. To avoid any over-capacity problem, this charging differential of \$30 per tonne between disposal at urban RTSs and landfills is proposed to be maintained after the implementation of MSW charging and be applied to the Northwest New Territories Transfer Station (NWNTTS) (currently charging at \$38 per tonne) as well to simplify the structure of the charging scheme. As regards the RTSs in Ma Wan, North Lantau Island and other outlying islands, the charging level for disposal of MSW at these RTSs should remain at the same level as that at landfills considering that there is no other alternative waste disposal outlet to these RTSs. On this basis, MSW disposed of at the four urban RTSs and NWNTTS by PWCs using non-RCVs is proposed to be charged at \$395 per tonne; and MSW disposed of at other RTSs and landfills at \$365 per tonne⁶. These charges are proposed to be maintained at the above-mentioned levels for the first three years and a review will be conducted after the first three years of implementation of MSW charging alongside the charging levels of the designated garbage bags and designated labels.

11. The Government will adopt a hybrid system to allow both PWCs and waste producers to register as account holders for paying the gate-fee in a flexible manner. PWCs can pay the gate-fee upfront and recoup the charges from their clients. Alternatively, waste producers can register as account holders for paying the gate-fee for the disposal of their MSW direct.

Implementation strategy

12. It is very challenging to implement MSW charging. To drive necessary behavioural and cultural changes, we will adopt a multipronged strategy based on (i) provision of appropriate preparatory time; (ii)

⁴ The prevailing charge, if any, for use of different RTSs by private waste haulers is in the range of \$30 - \$110 per tonne. The rate is set at a level intended to be commercially viable to the trade and to enable the Government to recover at least the additional cost for handling of the waste delivered by PWCs from RTSs to landfills.

⁵ Urban RTSs include Island West Transfer Station, Island East Transfer Station, West Kowloon Transfer Station and Shatin Transfer Station.

⁶ PWCs using RCVs have to pay \$30 per tonne for waste disposed of at the urban RTSs and NWNTTS.

enhanced support for waste reduction and recycling; (iii) intensive public education, publicity and engagement drives; (iv) application of innovation and technology (IT) initiatives; (v) assistance for the needy; and (vi) risk-based enforcement approach.

(i) Provision of appropriate preparatory time

13. We cannot under-estimate the challenge in implementing MSW charging on a territory-wide basis in one go. It would be necessary to provide appropriate time to prepare and support various stakeholders and the community for its implementation. A preparatory period of 12-18 months is therefore proposed to be put in place after the passage of the Amendment Bill and before the actual implementation of MSW charging. We estimate that MSW charging could be implemented by end 2020 at the earliest and there will be a lead time of around two years from now before it actually takes effect. During this period, the Government will intensify the publicity and public education efforts to further promote the awareness of various sectors of the introduction of the MSW charging scheme, in collaboration and partnership with various stakeholders. Details of the publicity and public education campaign are set out in paragraphs 23 to 27. We will also strengthen the support on waste reduction and recycling, including launching new outreaching services and pilot schemes for collection service in respect of waste plastics from non-C&I sources and food waste from C&I sources as elaborated in paragraphs 16 to 17, 19 to 20 and **Annex B**.

B

(ii) Enhanced support for waste reduction and recycling

14. As set out above, MSW charging is not introduced to raise Government's revenue or recover the cost for providing waste collection and disposal services. 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 our work on these fronts, with an additional provision of around \$300-400 million for the financial year (FY) 2019-20 to start with, which would 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 would 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 a 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 our 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 could mean higher disposal of MSW, thereby calling for more efforts to promote waste reduction and recycling.

Proposed initiatives

15. We propose that the additional resources can be used to fund various waste reduction and recycling initiatives, including (a) the setting up of outreaching teams under Environment Protection Department (EPD) to provide on-site assistance to the community, thereby putting waste reduction and recycling and MSW charging into practice; (b) regularisation 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 (RVMs) in promoting the recycling of plastic beverage containers.

Setting up of outreaching teams

16. To further enhance on-site support for recycling, outreaching teams are being established directly under the EPD. Building on the existing waste reduction and recycling network, outreaching teams will collaborate closely with community partners to educate the public on the importance of waste reduction at source and assist them to practise waste separation at source and clean recycling properly, as well as identify proper outlets for recyclables. At the same time, outreaching teams will also promote EPD's various waste reduction and recycling initiatives so as to raise public awareness and enhance stakeholders' understanding on the implementation details. We plan to kick-start outreaching services by the end of this year, starting first with three districts⁷. Actual experiences gained will serve as reference for gradual expansion of outreaching services to all districts in Hong Kong in future.

⁷ One district will be chosen from each of Hong Kong Island, Kowloon and the New Territories, including Eastern, Kwun Tong and Shatin districts.

17. The outreaching teams will mainly focus on education on promoting waste reduction and recycling during the early stage. They will strive to establish and maintain a direct and effective liaison network with property management companies (PMCs), frontline cleaning staff, residents' organisations and District Council (DC) members/community organisations, etc. through on-site visits in order to promote the practice of waste separation at source and clean recycling properly. The outreaching teams will, having regard to individual circumstances and actual situations, offer practical tips to residents in the neighbourhood to enhance such practices including how to apply for funding for launching recycling projects, and provide appropriate support to assist them to adjust and establish suitable recycling arrangements, with a view to enhancing effectiveness of and efficiency in waste reduction and recycling. In preparing for the implementation of MSW charging at a later stage and after the implementation of MSW charging, the outreaching teams will focus on providing on-site assistance to residents, PMCs and frontline cleaning staff to support members of the public to implement MSW charging.

Regularisation of funding support for CRCs

18. Apart from expanding the mobile outreaching teams, we will also proactively explore regularising the funding support for the existing CRCs. Currently run by non-governmental organisations (NGOs) and funded by the Environment and Conservation Fund (ECF) on a time-limited basis, these CRCs have established collection outlet networks for recyclable waste at the neighbourhood level and played a constructive role in promoting waste reduction and recycling in the local community. We will consider providing recurrent funding to these CRCs with the additional resources for promoting waste reduction and recycling purposes as mentioned in paragraph 14 above, to facilitate the ongoing and sustainable development of these well-established, district-based centres and encourage these NGO-operated centres to beef up their waste reduction and recycling support to local residents, in close collaboration with the outreaching teams.

Provision of free collection service in respect of waste plastics from non-C&I sources and food waste from all sources by the Government

19. In 2016, waste plastics account for about 20% of total volume of MSW disposal. Given the high costs for the collection, separation, storage and transportation of waste plastics, its economic value and

recycling performance have been rather low. To complement the introduction of MSW charging, we propose that the Government launches a pilot scheme to provide free collection service for waste plastics from non-C&I sources and assist in identifying proper outlets for waste plastics collected, so that we can review the effectiveness of the pilot scheme. Subject to the experiences from the pilot scheme, we envisage that territory-wide free collection service for waste plastics from non-C&I sources can be provided by 2022 at the earliest.

20. Food waste is the largest source of MSW disposal in 2016 and accounts for about 35% of total volume of MSW disposal. Our strategy is to promote “food wise” and reduction at source through public education while developing a series of Organic Resources Recovery Centres (ORRCs) to centrally recycle all collectable food waste to achieve waste-to-energy and transform them into renewable energy and produce compost as by-products. The ORRC Phase 1 just commenced its trial and commissioned its service in July 2018 and the ORRC Phase 2 is scheduled for commissioning by the fourth quarter of 2021 subject to funding approval from the LegCo Finance Committee this year. To accelerate food waste processing and having regard to successful overseas experience related to facilities for co-digesting food waste and sewage sludge, we are examining the feasibility of co-digesting food waste and sewage sludge through a pilot scheme at the Tai Po Sewage Treatment Works (STW), which will commence in early 2019, and expanding the trial to other suitable STW. Given the limited treatment capacity, the relatively less complicated collection arrangement for collecting food waste from C&I sectors and making reference to relevant overseas experiences, we will accord priority to the treatment of food waste generated from the C&I sectors. Given the rather low economic value of recycling food waste and high collection and transportation costs, we propose providing funding for the provision of food waste collection service covering C&I and domestic sectors in the longer run to promote food waste recycling and encourage the community to practise waste separation at source so as to relieve the burden on landfills. We will first launch the pilot scheme to provide free collection service for food waste from C&I sectors. Subject to the experiences gained from the pilot scheme and the progress of developing food waste recovery centres in Hong Kong, we envisage that free collection service for food waste can start to be expanded to other premises starting from 2022, with a view to eventually providing territory-wide free collection service for food waste from all sectors including C&I and domestic sectors. As waste plastics and food waste to be collected separately are clean and without impurities, these materials will not be subject to MSW charges. Our detailed proposals are set out at **Annex B**.

B

Reverse vending machines for plastic beverage containers

- C** 21. An RVM, as shown at **Annex C**, is a device that allows consumers to feed in empty beverage containers for refund of the prepaid deposit of a container. It is usually provided with a scanning function to recognise the barcodes on the containers to ensure that only “qualified” containers are accepted for refund. Equipped with a compression function, RVMs have been commonly used in other cities as a tool to encourage the return of plastic beverage containers for recycling through a rebate system.
22. To facilitate the recycling of plastic beverage containers and promote a circular economy, the EPD is conducting a consultancy study to explore the feasibility of introducing a producer responsibility scheme on plastic beverage containers and those carrying personal care products. Subject to the outcome of the study, we plan to install RVMs at public housing estates, private housing estates, district community centres and government facilities, etc. to provide a rebate for every plastic beverage container returned by the public, so as to facilitate the more efficient collection of plastic beverage containers. This also helps to reduce the number of roadside recycling bins for plastic beverage containers. The EPD is planning to conduct a pilot scheme on the application of RVMs later to assess its effectiveness in the local context.
- (iii) Publicity and public education*
23. As revealed in the experiences of other cities, public education, publicity and engagement hold the key to the successful implementation of MSW charging. They are not only instrumental to promoting public awareness and acceptance of MSW charging before its launch, but also crucial to reducing the enforcement burden and facilitating the implementation of a risk-based enforcement approach. To this end, we will be mounting a major publicity and public education campaign, from now till the actual implementation of MSW charging and beyond.
24. Our campaign efforts will be guided by three principles, including (i) a sustainable and extensive public education campaign targeted at the general public and specific groups (such as students and youngsters) under the theme of “Dump Less, Save More”; (ii) provision of first-hand experience of how MSW charging is implemented through the successive launches of setting-specific community engagement projects as well as close partnership and collaboration with government departments and stakeholder groups such as the Environmental Campaign

Committee (ECC), DCs and village representatives, green groups and schools in launching activities; and (iii) provision of direct, on-site and in-person assistance through outreaching efforts.

25. The effectiveness of waste reduction of MSW charging is contingent upon the cooperation and participation of various stakeholder groups and the whole community. A community-wide publicity and public education campaign is necessary to raise the awareness of various sectors of the MSW charging scheme and more importantly cultivate a sense of identification with the objective of its implementation. The overarching theme of “Dump Less, Save More” emphasises avoiding waste generation and reducing waste disposal, which will save resources and reduce MSW charges as well. In addition to appealing to different sectors of the community through the conventional and social media, we will target our public education and publicity efforts at students and youngsters in particular, who will help enlist support from their families and social circles to create the necessary drive and atmosphere for the implementation of MSW charging. Tailor-made briefings and training sessions will be organised for the frontline cleaners and PMCs to facilitate waste reduction and implementation of MSW charging. In this regard, we will launch a dedicated website on MSW charging (www.mswcharging.gov.hk) on 31 October 2018 to assist different sectors of the community to understand details of MSW charging. Videos and pamphlets will be made available later to explain the proposed implementation arrangement of MSW charging and provide detailed and specific information to individual sectors.

26. To promote a better understanding of the MSW charging arrangements and provide stakeholders from different sectors with first-hand experience of how MSW charging can be practised in real settings, the ECF has funded over 80 community involvement projects with about \$75 million since 2015. These community involvement projects have covered five various sectors involving more than 700 various premises, including residential housing estates which have engaged PMCs, single-block buildings, rural villages, C&I premises and public institutions/community service units. Around 30 funded projects have been completed. Overall speaking, the waste disposal volume of participating premises from completed projects reduced by about 10% and their amount of recyclables increased by about 20%. While community involvement projects are voluntary in nature and do not involve real charging, we expect that actual waste reduction upon the implementation of MSW charging will be more significant. Public education holds the key to drive behaviour changes. Therefore, we will continue to, through

outreaching teams (see paragraphs 16 and 17 above) and other channels, promote community involvement projects and encourage participation of various sectors of the community. We also organise experience sharing sessions and invite relevant organisations and stakeholders from various sectors to exchange and share their experiences on implementing MSW charging. We will optimise “Best Practice Guides” based on their experiences for different stakeholders’ reference in preparing for implementation of MSW charging.

27. Various government departments will foster closer collaboration and partnership with stakeholder groups in taking forward the publicity and public education campaign. In this regard, we will invite the ECC, green groups, schools, DCs and village representatives, etc., to jointly organise promotion events and activities to spread the messages across. Outreaching teams will also play an important role in our overall efforts to step up public education, publicity and engagement.

(iv) Application of IT initiatives

28. Apart from the application of IT initiatives to support waste reduction and recycling (such as RVMs mentioned in paragraphs 21 and 22 above), we will also actively consider applying IT initiatives to assist enforcement. To better monitor compliance situation, we propose developing some mobile applications for members of the public to report cases of non-compliance. We will also consider the need and practicality of requiring the RCVs of PWCs to install global positioning system and/or closed-circuit television and consult the PWC trade on this idea, to trace and deter the disposal of non-compliant MSW. The EPD and FEHD also plan to expand the installation of the internet-protocol cameras to deter fly-tipping at black spots in public places and expect that around 170 black spots will be covered in 2019.

29. Besides, the EPD and other relevant departments have participated in the pilot scheme of “Multi-functional Smart Lampposts” and will progressively introduce surveillance cameras with smart technology in the trial in four districts (namely, Central/Admiralty, Causeway Bay/Wan Chai, Tsim Sha Tsui and Kwun Tong/Kai Tak Development Area) to further step up the monitoring of fly-tipping and enhance deterrence against illegal behaviour. The smart lampposts under the trial scheme are expected to be commissioned progressively starting in the later part of 2019.

(v) *Assistance for the needy*

30. While the responsibility to reduce waste should be shared by the whole community and exemption from MSW charging is generally not recommended, we consider that the need of people with financial hardship should be addressed. The Government plans to provide financial assistance for the recipients of the Comprehensive Social Security Assistance (CSSA) Scheme, which provides a safety net for those who cannot support themselves financially. 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 designated garbage bag is used daily), we plan to increase the CSSA standard rates⁸ by \$10 per person per month for all CSSA recipients upon the implementation of MSW charging⁹.

(vi) *Risk-based enforcement approach*

31. 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 might not be the best approach bearing in mind the public do need time to adapt to this new charging scheme. Drawing on the successful experience of the Environmental Levy Scheme on Plastic Shopping Bags, we intend 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 designated garbage bags or affixed with designated labels (for the case of oversized waste), and will reject any waste that does not comply with the requirements. We will mainly issue warnings to non-compliant cases but enforcement actions would 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 change their behaviour. The EPD will conduct a survey to identify the kerbside collection points where the PWCs

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

⁹ The payment level of the Higher Old Age Living Allowance (OALA) launched on 1 June 2018 is pegged to the standard rates for able-bodied CSSA elderly singleton recipients (currently at \$3,485 per person per month). The rate of Higher OALA will be increased by \$10 accordingly upon the implementation of the MSW charging.

collect MSW and undertake targeted publicity and public education for relevant parties including the PMCs, residents and frontline cleaners.

32. 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 the waste reception points and reject non-compliant waste as during the phasing-in period. In addition, EPD and FEHD will, based on complaints and reports on non-compliance from frontline cleansing staff, waste collection contractors, PMCs and the public, conduct surveillance and enforcement actions at the different premises¹⁰, 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 offenders¹¹. A dedicated hotline would be set up by EPD to answer enquiries and to accept complaints and reports on non-compliance. We will also actively consider apply IT initiatives to assist enforcement and details are set out in paragraphs 28 and 29 above.

33. We propose to make it an offence for depositing MSW not properly wrapped in designated garbage bags or depositing oversized MSW without designated labels affixed, at the waste reception chambers or areas, which are on floor levels and other parts of the buildings. 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, a list of black spots will be drawn up for conducting inspection and enforcement actions against offenders in individual buildings after obtaining the agreement of relevant residents' organisations/PMCs.

¹⁰ The EPD mainly conducts surveillance and enforcement actions at RCPs of residential and C&I premises such as RCPs located at individual floors of buildings and RCPs at ground floors. The FEHD is mainly responsible for enforcement actions at RCPs under its management and enforcement actions against fly-tipping at public places.

¹¹ For prosecution by way of summons, a person would be liable to a fine at level 4 (i.e. \$25,000) and to imprisonment for six months for the first conviction, and to a fine at level 5 (i.e. \$50,000) and to imprisonment for six months for the second or subsequent conviction. The penalty levels for fixed penalty tickets and summons for the first conviction are pitched at the same levels as the offence of littering in public places under the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132 BK) having regard to their similar nature.

34. Experiences in other cities show that it will take time to cultivate the necessary culture change, and compliance situation will only gradually improve with time. The fly-tipping problem is likely to aggravate with the implementation of MSW charging in the initial period as with the experience of other cities. Since 2017, the FEHD has set up about 20 dedicated enforcement teams (DETs) to tackle illegal dumping at black spots all over the territory. Subject to availability of resources, the FEHD plans to set up three additional DETs in 2019-20 (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 our environmental hygiene while at the same time facilitate the necessary behavioural changes among the public in complying with the charging requirement. Both the FEHD and EPD are putting in place internet-protocol cameras at black spots for fly-tipping in public places (see paragraph 28 above). They will also work together in exploring the feasibility of collaborating with NGOs and green groups in cultivating good habit of proper disposal of MSW particularly at the pressure points such as “three-nil” buildings¹² and rural areas where RCPs including bin sites are basically unmanned.

35. On enforcement, the EPD and FEHD might take a few hundred staff to undertake the duties under the proposed enforcement arrangements in relation to the use of pre-paid designated garbage bags/labels though we will take a risk-based approach targeted at the list of black spots drawn up based on complaints and intelligence. The actual manpower requirements will be further reviewed having regard to a number of factors, including the public response to intensive public education and publicity work on waste reduction and recycling such as the proposed establishment of outreaching teams to provide on-site recycling assistance; the effectiveness of the pilot schemes for the proposed provision of free collection service in respect of waste plastics from non-C&I sources and food waste from C&I sources, and the FEHD’s stepped-up efforts to deal with littering and fly-tipping problems.

Establishment of Municipal Solid Waste Reduction Office

36. To facilitate the preparation for and implementation of the territory-wide MSW charging as a major policy tool to achieve our waste reduction target, we propose that a Municipal Solid Waste Reduction Office (WRO) be set up under the EPD after the passage of the Amendment

¹² “Three-nil buildings” are buildings without owners’ corporations, residents’ organisations or property management companies.

Bill. The new office, which will subsume all relevant resources in the EPD on MSW charging, will be responsible for taking forward the preparation, implementation, enforcement and review of MSW charging in conjunction with other departments.

THE AMENDMENT BILL

37. The main provisions of the Amendment Bill are as follows:–

- (a) **Clauses 3 to 10** add necessary provisions in the Waste Disposal Ordinance (Cap. 354) (WDO) to implement MSW charging, including the following–
 - (i) sections 20K to 20R, which create offences to prohibit the delivery or depositing of non-compliant MSW and provide for defences to these offences;
 - (ii) sections 20S to 20W, which provide for the power of the Director of Environmental Protection (DEP) to authorise persons to produce, sell or supply designated garbage bags and designated labels, the DEP's power to specify requirements for designated bags and designated labels, and offences relating to the improper sale or supply of designated garbage bags or designated labels;
 - (iii) sections 20X to 20ZA, which provide for the powers of the DEP and the Director of Food and Environmental Hygiene to prescribe signs for RCPs, specified bins, public waste vehicles and private waste vehicles and the requirement for certain vehicles to exhibit a prescribed sign, as well as relevant offences prohibiting improper exhibition of the prescribed signs on public waste vehicles and private waste vehicles; and
 - (iv) Schedule 14, which prescribes the prices of designated garbage bags and designated labels;
- (b) **Clauses 11 to 34** amend the Waste Disposal (Refuse Transfer Station) Regulation (Cap. 354 sub. leg. M) (which will be renamed as the Waste Disposal (Charge for Disposal of Municipal Solid Waste at Scheduled Facilities) Regulation)

to put in place a registration and billing system for disposal of MSW at scheduled facilities;

- (c) **Clause 35** amends the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Cap. 354 sub. leg. N) to empower the Secretary for the Environment to revise construction waste charges and set them at above cost recovery level in order to address the interface issues between MSW charge and construction waste charges as appropriate; and
- (d) **Clauses 36 to 37** add necessary provisions in the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570) to include offences relating to MSW charging.

D The existing provisions being amended are at **Annex D**.

LEGISLATIVE TIMETABLE

38. The legislative timetable is as follows:–

Publication in the Gazette	2 November 2018
First Reading and commencement of Second Reading debate	14 November 2018
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

IMPLICATIONS OF THE PROPOSAL

E 39. The proposal will have environmental, sustainability, economic, family and financial and civil service implications as detailed at **Annex E**. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the existing provisions of the WDO and its subsidiary legislation. There is no gender implication.

PUBLIC CONSULTATION

40. We have set up liaison platforms with different stakeholder groups, including property management sector, PWCs, chambers of commerce and Heung Yee Kuk, etc., to tap their views in mapping out the implementation arrangements of MSW charging. Following the announcement of the implementation details of MSW charging on 20 March 2017 and on 26 October 2017, the ENB/EPD organised over 100 liaison sessions, meetings, seminars and forums to brief the community and various stakeholders on the proposed arrangements and solicit their views and feedback.

PUBLICITY

41. We will issue a press release on 31 October 2018. A dedicated website (www.mswcharging.gov.hk) on the proposed implementation arrangements of MSW charging will also be launched. A spokesperson will be available to answer public enquiries. Publicity and public education on MSW charging are set out in paragraphs 23 to 27 above.

BACKGROUND

42. In the *Hong Kong Blueprint for Sustainable Use of Resources 2013 – 2022* published in May 2013, the Government analyses the challenges and opportunities of waste management in Hong Kong, and maps out a comprehensive strategy, targets, policies and action plans for waste management for the coming ten years with a view to tackling the waste crisis in Hong Kong. To take forward the blueprint, the Government is committed to undertaking multiple and concurrent actions to drive behavioural changes to reduce waste at source through policies and legislation. The implementation of MSW charging is the most important policy tool to achieve the waste disposal reduction target.

ENQUIRIES

43. Any enquiries on this brief can be addressed to Mr Kenneth CHAN, Assistant Director of Environmental Protection (Special Duties) at 3509 7620.

Environment Bureau / Environmental Protection Department
31 October 2018

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

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A BILL

To

Amend the Waste Disposal Ordinance and the Waste Disposal (Refuse Transfer Station) Regulation to establish a charging scheme for the disposal of municipal solid waste; to make a related amendment to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Ordinance 2018.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for the Environment by notice published in the Gazette.

2. Enactments amended

- (1) The Waste Disposal Ordinance (Cap. 354) is amended as set out in Part 2.
- (2) The Waste Disposal (Refuse Transfer Station) Regulation (Cap. 354 sub. leg. M) is amended as set out in Part 3.

- (3) The Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Cap. 354 sub. leg. N) is amended as set out in Part 4.
- (4) The Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570) is amended as set out in Part 5.

Part 2

Amendments to Waste Disposal Ordinance

3. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *collection authority*, paragraph (b)—

Repeal

“Food and Environmental Hygiene”

Substitute

“FEH”.

- (2) Section 2(1), English text, definition of *waste treatment plant*—

Repeal the full stop

Substitute a semicolon.

- (3) Section 2(1)—

Add in alphabetical order

“*designated bag* (指定袋) means a bag that—

- (a) is produced by the Director or a person who is authorized to produce it under section 20S(2)(a); and
- (b) meets the requirements specified under section 20T;

designated label (指定標籤) means a label that—

- (a) is produced by the Director or a person who is authorized to produce it under section 20S(2)(a); and

- (b) meets the requirements specified under section 20T;

Director of FEH (食環署長) means the Director of Food and Environmental Hygiene;

municipal solid waste (都市固體廢物) means any waste except—

- (a) chemical waste;
- (b) clinical waste; and
- (c) construction waste;

non-compliant waste (違規廢物) means municipal solid waste that neither is wrapped in a designated bag nor has a designated label attached to it;

private waste vehicle (非公用廢物車輛) means a vehicle (other than a public waste vehicle) 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;

public waste vehicle (公用廢物車輛) means a 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;

refuse collection point (垃圾收集站) means a place where—

- (a) municipal solid waste is collected and removed by, or on behalf of, the Director of FEH; and
- (b) the sign prescribed under section 20X(1)(a) is exhibited in the way prescribed under that section;

removal services (運廢服務) means services connected with the removal of municipal solid waste;

scheduled facility (附表設施)—see section 2 of the Waste Disposal (Refuse Transfer Station) Regulation (Cap. 354 sub. leg. M);

specified bin (指明桶箱) means a container that, in the way prescribed under section 20X(1)(c), exhibits the sign prescribed under that section;

waste collection officer (廢物收集人員) means a person who—

- (a) is employed by the Government; and
- (b) carries out the duty of loading municipal solid waste onto a public waste vehicle or moving municipal solid waste at a refuse collection point;

waste vehicle (廢物車輛) means a public waste vehicle or private waste vehicle;

wrapped in a designated bag (用指定袋包妥) means completely contained in a designated bag with the bag's opening tied so that no solid contents can escape from the bag during handling and transportation.”.

- (4) Section 2(1), definition of *scheduled facility*—

Repeal

“Refuse Transfer Station”

Substitute

“Charge for Disposal of Municipal Solid Waste at Scheduled Facilities”.

4. Part IVB added

After Part IVA—

Add

“Part IVB

Charging for Municipal Solid Waste

Division 1—Purpose of Part IVB

20J. Purpose of Part IVB

- (1) The purpose of this Part is to establish a quantity-based charging scheme for the disposal of municipal solid waste to achieve waste reduction.
- (2) Division 2 provides for the mandatory use of designated bags or designated labels when disposing of municipal solid waste.
- (3) Division 3 regulates the production, sale and supply of designated bags and designated labels.
- (4) Division 4 contains miscellaneous provisions.

Division 2—Mandatory Use of Designated Bags or Designated Labels

20K. Depositing non-compliant waste prohibited

- (1) A person commits an offence if the person deposits, or causes or permits to be deposited, any non-compliant waste—
 - (a) at a refuse collection point;
 - (b) onto a waste vehicle; or
 - (c) into a specified bin.
- (2) However, subsection (1) does not apply to—
 - (a) the Director of FEH; or

- (b) another person who is acting in the course of providing removal services at a refuse collection point or by a waste vehicle.
- (3) Section 20Q provides for the defences to, and section 20R provides for the penalty for, an offence under subsection (1).

20L. Depositing non-compliant waste by removal services provider prohibited

- (1) A person (other than a waste collection officer) who is acting in the course of providing removal services at a refuse collection point or by a waste vehicle 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 waste vehicle.
- (2) Section 20Q provides for the defences to an offence under subsection (1).
- (3) A person who commits an offence under subsection (1) is liable to a fine at level 2.

20M. Delivering non-compliant waste to certain persons prohibited

- (1) A person commits an offence if the person delivers, or causes or permits to be delivered, any non-compliant waste to—
 - (a) a waste collection officer; or
 - (b) another person who is acting in the course of providing removal services at a refuse collection point or by a waste vehicle.
- (2) However, subsection (1) does not apply if the person who delivers, or causes or permits the delivery of, the non-compliant waste is—

- (a) the Director of FEH; or
- (b) another person who is acting in the course of providing removal services at a refuse collection point or by a waste vehicle.
- (3) Section 20Q provides for the defences to, and section 20R provides for the penalty for, an offence under subsection (1).

20N. Depositing labelled municipal solid waste onto private waste vehicle prohibited

- (1) A person commits an offence if the person deposits, or causes or permits to be deposited, onto a private waste vehicle any municipal solid waste that has a designated label attached to it but that is not wrapped in a designated bag.
- (2) Section 20Q provides for the defences to an offence under subsection (1).
- (3) A person who commits an offence under subsection (1) is liable—
 - (a) if, at the time of the offence, the person was acting in the course of providing removal services by the private waste vehicle—to a fine at level 2;
 - (b) in any other case—
 - (i) on the first conviction—to a fine at level 4 and to imprisonment for 6 months;
 - (ii) on a subsequent conviction—to a fine at level 5 and to imprisonment for 6 months.

20O. Delivering labelled municipal solid waste to certain removal services provider prohibited

- (1) A person commits an offence if the person delivers, or causes or permits to be delivered, to a person acting in the course of providing removal services by a private waste vehicle any municipal solid waste that has a designated label attached to it but that is not wrapped in a designated bag.
- (2) However, subsection (1) does not apply if the person who delivers, or causes or permits the delivery of, the waste is acting in the course of providing removal services by the private waste vehicle.
- (3) Section 20Q provides for the defences to, and section 20R provides for the penalty for, an offence under subsection (1).

20P. Depositing non-compliant waste in certain common areas prohibited

- (1) A person commits an offence if the person deposits, or causes to be deposited, non-compliant waste in a common area of any premises that is used for depositing waste pending removal from the premises for disposal (*common area for waste*).
- (2) For the purposes of subsection (1), if a person deposits, or causes to be deposited, non-compliant waste into a waste chute of any premises (including any hopper to the chute), the person is regarded as depositing, or causing to be deposited, non-compliant waste in a common area for waste.
- (3) However, subsection (1) does not apply if—
 - (a) the non-compliant waste is deposited, or caused to be deposited, in a common area into a litter

- container designed for depositing a small quantity of small-sized municipal solid waste only;
- (b) there is in place an arrangement under which the non-compliant waste—
 - (i) is delivered to a scheduled facility by a vehicle that is not a waste vehicle; and
 - (ii) is subject to the charges specified in the Schedule to the Waste Disposal (Charge for Disposal of Municipal Solid Waste at Scheduled Facilities) Regulation (Cap. 354 sub. leg. M);
- (c) the non-compliant waste is deposited, or caused to be deposited, by any person in providing services connected with the removal of municipal solid waste from the premises; or
- (d) the non-compliant waste is—
 - (i) reasonably suitable for recycling; and
 - (ii) deposited, or caused to be deposited, into a container, or in an area, that is reasonably used for depositing materials for recycling.
- (4) Section 20Q provides for the defences to, and section 20R provides for the penalty for, an offence under subsection (1).

20Q. Defences to particular offences

- (1) It is a defence for a person charged with an offence under section 20K, 20L, 20M, 20N, 20O or 20P to prove that—
 - (a) the person took all reasonable precautions and exercised all due diligence to avoid committing the offence;

- (b) the person—
 - (i) did the act constituting the offence at the instruction of the person’s employer or was not provided by the person’s employer with the necessary means to comply with the section; and
 - (ii) took all steps reasonably open to the person to avoid committing the offence; or
- (c) the person—
 - (i) deposited or delivered, or caused or permitted to be deposited or delivered, the waste in an emergency to avoid danger to the public; and
 - (ii) informed the collection authority in writing of the deposit or delivery as soon as reasonably practicable.
- (2) It is a defence for a person charged with an offence under section 20K, 20L, 20M or 20P to prove that the non-compliant waste is a bag that visibly contains only waste wrapped in designated bags.
- (3) It is a defence for a person charged with an offence under section 20K, 20L or 20M to prove that—
 - (a) the person deposited or delivered, or caused or permitted to be deposited or delivered, the non-compliant waste in an honest and reasonable belief that it would not be disposed of at a scheduled facility; or
 - (b) the non-compliant waste was municipal solid waste that escaped from a designated bag that had been damaged or unfastened—
 - (i) during the compaction of the bag by a device designed for compacting waste; or

- (ii) when the bag was deposited into a waste chute.
- (4) A matter that needs to be established for a defence under this section is taken to have been established if—
 - (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

20R. Penalties for particular offences

A person who commits an offence under section 20K, 20M, 20O or 20P is liable—

- (a) on the first conviction—to a fine at level 4 and to imprisonment for 6 months;
- (b) on a subsequent conviction—to a fine at level 5 and to imprisonment for 6 months.

Division 3—Designated Bags and Designated Labels

20S. Who may produce, sell or supply for free

- (1) The Director may—
 - (a) produce designated bags or designated labels;
 - (b) sell designated bags or designated labels; and
 - (c) supply designated bags or designated labels for free.
- (2) The Director may, on the terms and conditions specified by the Director, authorize any person to—
 - (a) produce designated bags or designated labels;
 - (b) sell designated bags or designated labels; or

- (c) supply, in the course of a profit-seeking business, designated bags or designated labels for free.
- (3) The Director may revoke an authorization granted under subsection (2) if any term or condition specified for the authorization is contravened.

20T. Director may specify requirements

The Director may, by notice published in the Gazette, specify requirements for designated bags and designated labels, including their sizes, shapes, designs and materials.

20U. Sale by unauthorized person prohibited

- (1) A person who is not authorized under section 20S(2)(b) commits an offence if the person sells, offers to sell or exhibits for the purpose of sale any designated bag or designated label.
- (2) However, subsection (1) does not apply if the person—
 - (a) in the course of business, provides or arranges for the provision of a waste collection service; and
 - (b) sells, offers to sell or exhibits for the purpose of sale to a user of the service the designated bag or designated label at the price prescribed for the bag or label in Schedule 14.
- (3) A person who commits an offence under subsection (1) is liable—
 - (a) on the first conviction—to a fine at level 6;
 - (b) on a subsequent conviction—to a fine of \$200,000.

20V. Sale at other than prescribed price prohibited

- (1) A person who is authorized under section 20S(2)(b) commits an offence if the person sells, offers to sell or

- exhibits for the purpose of sale any designated bag or designated label at a price other than the price prescribed for the bag or label in Schedule 14.
- (2) A person who is authorized under section 20S(2)(b) commits an offence if the person offers to a customer any rebate or discount that—
 - (a) has the effect of directly or indirectly offsetting the price, or any part of the price, of a designated bag or designated label; and
 - (b) is not generally applicable to other goods offered for sale by the person.
- (3) To avoid doubt, if—
 - (a) a person purchases any designated bag or designated label from a seller;
 - (b) because of the purchase, the person receives a favour (whether or not transferable) that in effect reduces the price of an item (whether or not a designated bag or designated label) in a subsequent purchase from the seller; and
 - (c) the favour is offered under an arrangement that is generally applicable to the purchase of goods (whether or not a designated bag or designated label) from the seller,the favour is not a rebate or discount that falls within subsection (2).
- (4) A person who commits an offence under subsection (1) or (2) is liable—
 - (a) on the first conviction—to a fine at level 6;
 - (b) on a subsequent conviction—to a fine of \$200,000.

20W. Certain free supply prohibited

- (1) A person commits an offence if the person supplies, in the course of a profit-seeking business, any designated bag or designated label for free.
- (2) However, subsection (1) does not apply if the person—
 - (a) is authorized under section 20S(2)(c); or
 - (b) provides or arranges for the provision of a waste collection service and supplies the designated bag or designated label for use in relation to the service.
- (3) A person who commits an offence under subsection (1) is liable—
 - (a) on the first conviction—to a fine at level 6;
 - (b) on a subsequent conviction—to a fine of \$200,000.

Division 4—Miscellaneous Provisions

20X. Prescribed signs

- (1) The Director of FEH may, by notice published in the Gazette, prescribe—
 - (a) the sign to be exhibited at refuse collection points and the way of exhibition;
 - (b) the sign to be exhibited on public waste vehicles and the way of exhibition; and
 - (c) the sign to be exhibited on specified bins and the way of exhibition.
- (2) The Director may, by notice published in the Gazette, prescribe the sign to be exhibited on private waste vehicles and the way of exhibition.

20Y. Waste vehicles must exhibit prescribed sign in certain circumstances

- (1) The driver of a public waste vehicle must ensure the sign prescribed under section 20X(1)(b) is exhibited on the vehicle in the prescribed way.
- (2) The driver of a private waste vehicle must ensure the sign prescribed under section 20X(2) is exhibited on the vehicle in the prescribed way.
- (3) If, in contravention of subsection (1) or (2), a prescribed sign is not exhibited on a waste vehicle in the prescribed way, each of the following persons commits an offence and is liable to a fine at level 4—
 - (a) the driver of the vehicle; and
 - (b) the driver's employer if—
 - (i) the driver did the act constituting the offence by the driver at the instruction of the employer; or
 - (ii) the employer failed to provide the necessary means for the driver to comply with that subsection.
- (4) It is a defence for a driver charged with an offence under subsection (3) to prove that—
 - (a) the driver did the act constituting the offence by the driver at the instruction of the driver's employer; or
 - (b) the driver's employer failed to provide the necessary means for the driver to comply with subsection (1) or (2), as may be appropriate.
- (5) A matter that needs to be established for a defence under subsection (4) is taken to have been established if—

- (a) there is sufficient evidence to raise an issue with respect to that matter; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

20Z. Vehicles must not exhibit prescribed sign in certain circumstances

- (1) The driver of a vehicle must not allow the exhibition of the sign prescribed under section 20X(1)(b) on the vehicle when the vehicle is not a public waste vehicle.
- (2) The driver of a vehicle must not allow the exhibition of the sign prescribed under section 20X(2) on the vehicle when the vehicle is not a private waste vehicle.
- (3) If, in contravention of subsection (1) or (2), a prescribed sign is exhibited on a vehicle, each of the following persons commits an offence and is liable to a fine at level 4—
 - (a) the driver of the vehicle; and
 - (b) the driver’s employer if the driver did the act constituting the offence by the driver at the instruction of the employer.
- (4) It is a defence for a driver charged with an offence under subsection (3) to prove that the driver did the act constituting the offence by the driver at the instruction of the driver’s employer.
- (5) A matter that needs to be established for a defence under subsection (4) is taken to have been established if—
 - (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

20ZA. Designated bag not subject to Product Eco-responsibility Ordinance

To avoid doubt, a designated bag is not a plastic shopping bag to which the Product Eco-responsibility Ordinance (Cap. 603) applies.”.

5. Section 24 amended (when appeal may be brought)

After section 24(1)(bd)—

Add

“(be) section 20S(2) and (3) (refusing to grant, or revoking, an authorization to produce, sell or supply for free designated bags or designated labels);”.

6. Section 31 amended (mental ingredients of certain offences under the Ordinance)

Section 31, after “20E”—

Add

“, 20K, 20L, 20M, 20N, 20O, 20P”.

7. Section 33 amended (regulations)

(1) After section 33(1)(j)—

Add

“(jaa) the imposition of charges for the disposal of any waste, which charges may be set at above cost recovery level;”.

(2) After section 33(6)—

Add

“(7) If a Schedule to any regulations made under this section specifies the charges to be imposed in respect of any waste accepted for disposal at a waste disposal facility prescribed by the regulations, the regulations may

provide that the Secretary may, by notice published in the Gazette, amend the Schedule to revise the charges.

(8) The Secretary may, under subsection (7), set the charges at above cost recovery level.”.

8. Section 37 amended (amendment of Schedules)

After section 37(3)—

Add

“(4) The Secretary may, by notice published in the Gazette, amend Schedule 14.

(5) The Secretary may, under subsection (4), set the prices prescribed in Schedule 14 at above cost recovery level.”.

9. Schedule 14 added

After Schedule 13—

Add

“Schedule 14

[ss. 20U & 20V]

Part 1

Prices of Designated Bags

Column 1	Column 2
Capacity of designated bag	Price per bag
3 litres	\$0.3

Column 1	Column 2
Capacity of designated bag	Price per bag
5 litres	\$0.6
10 litres	\$1.1
15 litres	\$1.7
20 litres	\$2.2
35 litres	\$3.9
50 litres	\$5.5
75 litres	\$8.5
100 litres	\$11
240 litres	\$26
660 litres	\$73

Part 2

Price of Designated Label

\$11 per label”.

10. Schedule 14 amended

Schedule 14—

Repeal

“& 20V]”

Substitute

“, 20V & 37]”.

Part 3

Amendments to Waste Disposal (Refuse Transfer Station) Regulation

11. Title amended

The title—

Repeal

“REFUSE TRANSFER STATION”

Substitute

“CHARGE FOR DISPOSAL OF MUNICIPAL SOLID WASTE AT SCHEDULED FACILITIES”.

12. Section 2 amended (interpretation)

(1) Section 2—

(a) definition of *contractor (other than a station operator)*;

(b) definition of *non-peak hours*;

(c) definition of *peak hours*;

(d) definition of *refuse transfer station*;

(e) definition of *registered account-holder*;

(f) definition of *registered vehicle*;

(g) definition of *service conditions*;

(h) definition of *station operator*;

(i) definition of *unacceptable waste*—

Repeal the definitions.

(2) Section 2—

Add in alphabetical order

“*account conditions* (帳戶條件) means—

- (a) in relation to a Type A account-holder—the terms and conditions imposed under section 6A for the time being in relation to the account-holder; or
- (b) in relation to a Type B account-holder—the terms and conditions imposed under section 6B for the time being in relation to the account-holder;

account-holder (戶主) means—

- (a) a Type A account-holder; or
- (b) a Type B account-holder;

permitted vehicle (獲准車輛), in relation to a scheduled facility, means a vehicle registered as a permitted vehicle for the facility under section 6A or 7A;

scheduled facility (附表設施) means a Group 1 facility, Group 2 facility or Group 3 facility as defined in section 1 of Part 1 of the Schedule;

Type A account-holder (甲類帳戶戶主), in relation to a scheduled facility, means a person registered as a Type A account-holder for the facility under section 6A;

Type B account-holder (乙類帳戶戶主), in relation to a scheduled facility, means a person registered as a Type B account-holder for the facility under section 6B.”.

13. Section 3 amended (application)

- (1) Section 3—

Repeal

“the Schedule”

Substitute

“Part 1A of the Schedule and to the disposal of municipal solid waste at a scheduled facility”.

- (2) Section 3—

Repeal

“to the refuse transfer stations specified in column 2 of Part 1A of the Schedule and”.

14. Section 4 substituted

Section 4—

Repeal the section

Substitute

“4. Disposal of municipal solid waste at scheduled facilities

- (1) A person must not dispose of municipal solid waste at a scheduled facility unless—
- (a) it is disposed of from a vehicle;
 - (b) the registered owner of the vehicle is registered as a Type A account-holder for the facility;
 - (c) the vehicle is registered under section 6A or 7A for disposing of municipal solid waste at the facility; and
 - (d) if the municipal solid waste is disposed of on behalf of a Type B account-holder—the account-holder is registered for the facility.
- (2) Subsection (1) does not apply to—
- (a) the disposal of municipal solid waste from a vehicle owned by the Government; or
 - (b) the disposal of municipal solid waste collected by, or on behalf of, the Director of FEH.”.

15. Section 5 repealed (application for registration)

Section 5—

Repeal the section.

16. Sections 5A and 5B added

The Regulation—

Add

“5A. Application for registration as Type A account-holder

- (1) Any person (other than a Type B account-holder) may make an application to the Director—
 - (a) to be registered as a Type A account-holder for the purpose of disposing of municipal solid waste at one or more scheduled facilities; and
 - (b) to register in the person’s name one or more vehicles (of which the person is the registered owner) to be used for disposing of municipal solid waste at one or more scheduled facilities.
- (2) The application must—
 - (a) be made in a way and form specified by the Director; and
 - (b) contain the particulars, information and materials the Director reasonably requires for the determination of the application.
- (3) Under subsection (2)(b), the Director may, for example, require the applicant to specify—
 - (a) the scheduled facility or facilities at which municipal solid waste is intended to be disposed of;
 - (b) the estimated amount of municipal solid waste that is intended to be disposed of monthly at the scheduled facility or facilities;
 - (c) the nature of the municipal solid waste; and

- (d) the registration mark or marks of the vehicle or vehicles that is or are to be used for disposing of municipal solid waste at the scheduled facility or facilities.
- (4) In considering the application, the Director may, by written notice to the applicant, require the applicant to provide further particulars, information and materials the Director reasonably requires for the determination of the application as specified in the notice within the time specified in the notice.

5B. Application for registration as Type B account-holder

- (1) Any person (other than a Type A account-holder) may make an application to the Director to be registered as a Type B account-holder for the purpose of disposing of municipal solid waste at one or more scheduled facilities.
- (2) The application must—
 - (a) be made in a way and form specified by the Director; and
 - (b) contain the particulars, information and materials the Director reasonably requires for the determination of the application.
- (3) Under subsection (2)(b), the Director may, for example, require the applicant to specify—
 - (a) the scheduled facility or facilities at which municipal solid waste is intended to be disposed of;
 - (b) the estimated amount of municipal solid waste that is intended to be disposed of monthly at the scheduled facility or facilities; and
 - (c) the nature of the municipal solid waste.

- (4) In considering the application, the Director may, by written notice to the applicant, require the applicant to provide further particulars, information and materials the Director reasonably requires for the determination of the application as specified in the notice within the time specified in the notice.”.

17. Section 6 repealed (Director may register account-holders and vehicles)

Section 6—

Repeal the section.

18. Sections 6A and 6B added

The Regulation—

Add

“6A. Director may register Type A account-holders and vehicles

- (1) If the Director is satisfied that the applicant making an application under section 5A is a fit and proper person to be registered as a Type A account-holder and that the vehicle or vehicles specified in the application is or are suitable for disposing of municipal solid waste at one or more scheduled facilities, the Director may—
- (a) register the applicant as a Type A account-holder; and
 - (b) register the vehicle or vehicles in the applicant’s name as a permitted vehicle or permitted vehicles for the facility or facilities.
- (2) For the purposes of subsection (1), a vehicle is suitable for disposing of municipal solid waste at a scheduled facility if—

- (a) it is in good working condition;
 - (b) it 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.
- (3) The Director may impose the terms and conditions for registration as the Director considers appropriate, including terms and conditions—
- (a) requiring the applicant to pay to the Director a deposit as security for payment of charges and surcharges under this Regulation; and
 - (b) limiting the registration of the applicant, or the registration of a vehicle in the applicant’s name, to a particular scheduled facility.
- (4) The Director—
- (a) must specify the terms and conditions imposed under subsection (3) in the notice under subsection (6); and

- (b) may, from time to time, by written notice to the account-holder, impose, vary or revoke any term or condition.
- (5) The Director may refuse to register a person as a Type A account-holder if—
 - (a) the person fails to provide the particulars, information or materials under section 5A(2)(b) or (4);
 - (b) the person provides any false particulars, information or materials;
 - (c) the person has incurred any charge or surcharge under this Regulation and, as at the date of the person's application under section 5A, has not paid it;
 - (d) the person is a Type B account-holder; or
 - (e) because of the operation of subsection (2), no vehicle can be registered in the person's name as a permitted vehicle.
- (6) The Director must, by written notice to the applicant—
 - (a) inform the applicant of the Director's decision to register, or refuse to register, the applicant as a Type A account-holder;
 - (b) if the Director decides to register the applicant—specify the amount of the deposit mentioned in subsection (3)(a) and the deadline for its payment; and
 - (c) if the Director decides to refuse to register the applicant—give the reason for the refusal.
- (7) If—

- (a) a Type A account-holder anticipates that the amount of municipal solid waste that the account-holder will dispose of monthly at the scheduled facility or facilities will change substantially;
- (b) a Type A account-holder anticipates that the nature of the municipal solid waste that the account-holder will dispose of at the scheduled facility or facilities will change; or
- (c) there is any change in the particulars, information or materials provided by a Type A account-holder under section 5A(2)(b) or (4),
the account-holder must, as soon as reasonably practicable, notify the Director of the change or anticipated change and give details of the change or anticipated change that are reasonably required by the Director for assessing the adequacy of the deposit mentioned in subsection (3)(a).

6B. Director may register Type B account-holders

- (1) If the Director is satisfied that the applicant making an application under section 5B is a fit and proper person to be registered as a Type B account-holder, the Director may register the applicant as a Type B account-holder.
- (2) The Director may impose the terms and conditions for registration as the Director considers appropriate, including terms and conditions—
 - (a) requiring the applicant to pay to the Director a deposit as security for payment of charges and surcharges under this Regulation; and
 - (b) limiting the registration of the applicant to a particular scheduled facility.

- (3) The Director—
 - (a) must specify the terms and conditions imposed under subsection (2) in the notice under subsection (5); and
 - (b) may, from time to time, by written notice to the account-holder, impose, vary or revoke any term or condition.
- (4) The Director may refuse to register a person as a Type B account-holder if the person—
 - (a) fails to provide the particulars, information or materials under section 5B(2)(b) or (4);
 - (b) provides any false particulars, information or materials;
 - (c) has incurred any charge or surcharge under this Regulation and, as at the date of the person's application under section 5B, has not paid it; or
 - (d) is a Type A account-holder.
- (5) The Director must, by written notice to the applicant—
 - (a) inform the applicant of the Director's decision to register, or refuse to register, the applicant as a Type B account-holder;
 - (b) if the Director decides to register the applicant—specify the amount of the deposit mentioned in subsection (2)(a) and the deadline for its payment; and
 - (c) if the Director decides to refuse to register the applicant—give the reason for the refusal.
- (6) If—
 - (a) a Type B account-holder anticipates that the amount of municipal solid waste that the account-

- (b) holder will dispose of monthly at the scheduled facility or facilities will change substantially;
 - (b) a Type B account-holder anticipates that the nature of the municipal solid waste that the account-holder will dispose of at the scheduled facility or facilities will change; or
 - (c) there is any change in the particulars, information or materials provided by a Type B account-holder under section 5B(2)(b) or (4),
the account-holder must, as soon as reasonably practicable, notify the Director of the change or anticipated change and give details of the change or anticipated change that are reasonably required by the Director for assessing the adequacy of the deposit mentioned in subsection (2)(a).”.
- 19. Section 7 repealed (registration of additional vehicle, etc.)**
Section 7—
Repeal the section.
- 20. Section 7A added**
Before section 8—
Add
- “7A. Registration of additional vehicle etc. for Type A account-holders**
- (1) A Type A account-holder may at any time make an application to the Director—
 - (a) to remove any vehicle registered in the account-holder's name from registration; or

- (b) to register in the account-holder's name, either in substitution for a vehicle removed from registration under paragraph (a) or as an additional vehicle, a vehicle of which the account-holder is the registered owner as a permitted vehicle.
- (2) If an application is made under subsection (1)(b), sections 5A and 6A apply, subject to necessary modifications, in relation to the application.
- (3) If a Type A account-holder ceases to be the registered owner of a vehicle already registered in the account-holder's name under this section or section 6A, the account-holder—
 - (a) must immediately notify the Director; and
 - (b) until the Director acknowledges in writing the receipt of the notification, remains liable for all charges and surcharges incurred under this Regulation for the disposal of municipal solid waste from the vehicle.”.

21. Section 8 amended (register of account-holder)

- (1) Section 8, Chinese text, heading—

Repeal

“帳戶戶”

Substitute

“戶”.

- (2) Section 8—

Repeal

“section 6 as he”

Substitute

“sections 6A, 6B and 7A as the Director”.

22. Section 9 substituted

Section 9—

Repeal the section

Substitute

“9. Recording of weight and time at weighbridge

A person intending to dispose of municipal solid waste at a scheduled facility from a vehicle must take such reasonable steps as may be necessary for ensuring that—

- (a) the time when the vehicle enters the in-weighbridge of the facility and the gross vehicle weight of the vehicle at the in-weighbridge at that time are recorded at the in-weighbridge computer; and
- (b) the gross vehicle weight of the vehicle at the time when it enters the out-weighbridge after the disposal is recorded at the out-weighbridge computer.”.

23. Section 10 amended (charges for disposal of waste)

- (1) Section 10, heading, before “waste”—

Add

“municipal solid”.

- (2) Section 10—

Repeal subsections (1) and (2)

Substitute

“(1) Subject to subsections (2) and (4), if municipal solid waste is disposed of—

- (a) at a scheduled facility from a permitted vehicle registered in the name of a Type A account-holder

(otherwise than on behalf of a Type B account-holder); or

- (b) on behalf of a Type B account-holder at a scheduled facility for which the account-holder is registered,

the account-holder must pay to the Director charges specified in the Schedule for the disposal.

- (2) If municipal solid waste is disposed of at a scheduled facility in contravention of section 9, the charges payable under subsection (1) must be calculated as if the weight of the waste were—

(a) the gross vehicle weight of the vehicle at the in-weighbridge before the disposal as recorded at the in-weighbridge computer; or

(b) if the weight is not recorded at the computer—the permitted gross vehicle weight of the vehicle.”

- (3) Section 10(3)—

Repeal

everything before “as if”

Substitute

“(3) If a person disposes of municipal solid waste at a scheduled facility in contravention of section 4, the person must, without prejudice to the person’s liability under section 18(1), pay to the Director charges for each load of waste disposed of”.

- (4) Section 10(3)(a), after “disposal”—

Add

“as recorded at the in-weighbridge computer”.

- (5) Section 10(4), before “the Schedule”—

Add

“Part 1A of”.

- (6) Section 10(5), before “the Schedule”—

Add

“Part 1A of”.

- (7) Section 10—

Repeal subsection (4)

Substitute

“(4) If a person claims that the municipal solid waste the person disposes of or intends to dispose of at a scheduled facility should be charged to a Type B account-holder, the Director may require the person to produce evidence that is reasonably required by the Director for substantiating the claim.”.

- (8) Section 10—

Repeal subsection (5).

24. Section 11 amended (payment of charges and levy of surcharge)

- (1) Section 11—

Repeal subsection (1)

Substitute

“(1) The Director must, from time to time, issue a notice of demand to the account-holder mentioned in section 10(1) or the person liable to pay charges under section 10(3).

(1A) The notice of demand must specify the amount of the charges payable for the municipal solid waste disposed of at scheduled facilities during the period specified in the notice.

(1B) The charge must be paid within 30 days from the date of the notice of demand in the way specified in the notice.”.

(2) Section 11(2)—

Repeal

“(1)”

Substitute

“(1B)”.

(3) Section 11(3)—

Repeal

“registered account-holder and of any vehicle registered in his name, and any vehicle so suspended ceases to be a registered”

Substitute

“account-holder and of any vehicle registered in the account-holder’s name, and any vehicle so suspended ceases to be a permitted”.

(4) Section 11(4)—

Repeal

“a registered account-holder, the Director shall”

Substitute

“an account-holder, the Director must”.

(5) Section 11(4)(b)—

Repeal

everything after “charges”

Substitute

“incurred before the suspension of the registration of that person.”.

(6) Section 11(5)—

Repeal

“registered account-holder to pay such amount as he”

Substitute

“account-holder to pay such amount as the Director”.

(7) Section 11(6)(b)—

Repeal

“a registered account-holder”

Substitute

“an account-holder”.

25. Section 12 repealed (deposit)

Section 12—

Repeal the section.

26. Section 12A added

The Regulation—

Add

“12A. Deposit

(1) A deposit paid by an account-holder under section 6A or 6B—

- (a) does not bear interest;
- (b) is not transferable; and
- (c) may, without prejudice to any other power under this Regulation, be applied by the Director at any time to the payment of any charge or surcharge owed by the account-holder under this Regulation.

- (2) Subject to subsection (1)(c), the Director must refund to a person the deposit or part of the deposit paid by the person if—
- (a) the person ceases to be an account-holder because the registration is revoked under section 11(6), 13A or 13B; or
 - (b) the Director is satisfied that the deposit, or that part of the deposit, is no longer required.
- (3) The Director may at any time, by written notice to an account-holder—
- (a) increase the amount of deposit for the account-holder's continued registration by an amount specified in the notice; and
 - (b) require the account-holder to pay the increase to the Director within the time and in the way specified in the notice.
- (4) Subsections (1) and (2) apply to any increased amount of deposit paid by any person for—
- (a) the person's continued registration as an account-holder; or
 - (b) restoring the person's registration under section 11(5)."

27. Section 13 amended (revocation of registration)

- (1) Section 13(1)(e), after "conditions"—

Add

"imposed in respect of that person's registration under section 6".

- (2) Section 13—

Repeal the section.

28. Sections 13A, 13B and 13C added

Before section 14—

Add

"13A. Revocation of registration of Type A account-holder

- (1) Without prejudice to section 11, the Director may revoke the registration of any person as a Type A account-holder if—
- (a) unacceptable waste has been disposed of at a scheduled facility from a permitted vehicle registered under section 6A or 7A in the person's name (*relevant vehicle*), or any person has attempted to dispose of unacceptable waste at a scheduled facility from a relevant vehicle;
 - (b) municipal solid waste has been disposed of at a scheduled facility from a relevant vehicle in contravention of section 9, or any person has attempted to dispose of municipal solid waste at a scheduled facility from a relevant vehicle in contravention of that section;
 - (c) damage has been caused to a scheduled facility by a relevant vehicle, or any person associated with the operation of a relevant vehicle has attempted to cause damage to a scheduled facility by the vehicle;
 - (d) the Director requires the person to make a payment under section 11(5) or 12A(3) and the payment is not made as required;
 - (e) a breach of account conditions has occurred in relation to the person or a relevant vehicle;

- (f) the person or the driver of a relevant vehicle has committed an offence under the Ordinance or this Regulation, or an offence under the Ordinance or this Regulation has been committed in relation to a relevant vehicle;
- (g) the person's continued registration as a Type A account-holder is, in the opinion of the Director, prejudicial to the operation of any scheduled facility;
- (h) the person fails to comply with section 6A(7); or
- (i) no charge has been incurred in relation to the person under this Regulation for a continuous period of 12 months and the person does not, within 28 days from the date of a written request from the Director to do so, indicate the person's desire to maintain the registration.

(2) In this section—

unacceptable waste (不可接受廢物), in relation to a person, means the waste specified as unacceptable waste in the person's account conditions.

13B. Revocation of registration of Type B account-holder

Without prejudice to section 11, the Director may revoke the registration of any person as a Type B account-holder if—

- (a) the Director requires the person to make a payment under section 11(5) or 12A(3) and the payment is not made as required;
- (b) a breach of account conditions has occurred in relation to the person;
- (c) the person has committed an offence under the Ordinance or this Regulation;

- (d) the person's continued registration as a Type B account-holder is, in the opinion of the Director, prejudicial to the operation of any scheduled facility;
- (e) the person fails to comply with section 6B(6); or
- (f) no charge has been incurred in relation to the person under this Regulation for a continuous period of 12 months and the person does not, within 28 days from the date of a written request from the Director to do so, indicate the person's desire to maintain the registration.

13C. Director to give notice of revocation of registration

If the registration of a person as an account-holder is revoked under section 11(6), 13A or 13B, the Director must give the person written notice of the revocation and the reason for it.”.

29. Section 14 amended (Director may appoint designated officers)

- (1) Section 14(1), after “operator”—

Add

“, a facility operator, any non-operator contractor”.

- (2) Section 14(1)—

Repeal

“a station operator, any contractor (other than a station operator),”.

- (3) After section 14(2)—

Add

“(3) In this section—

facility operator (設施營運者) means a person who has entered into an agreement with the Government for the operation or management of a scheduled facility;

non-operator contractor (非營運承辦商) means a person, other than a facility operator, who has entered into an agreement with the Government or with a facility operator for the carrying out of an activity, or the provision of a service, in connection with the operation or management of a scheduled facility.”.

30. Section 16 substituted

Section 16—

Repeal the section

Substitute

“16. No charge for certain municipal solid waste

- (1) No charge is payable under this Regulation for the municipal solid waste collected by, or on behalf of, the Director of FEH.
- (2) The Director may grant to any person, whether generally or in respect of any particular load of municipal solid waste, an exemption from any charge payable under this Regulation as the Director considers appropriate.
- (3) An exemption may be granted under subsection (2) with or without conditions.
- (4) If a person claims that the municipal solid waste the person disposes of or intends to dispose of at a scheduled facility is, by virtue of subsection (1) or (2), not chargeable under this Regulation, the Director may require the person to produce such evidence as may be reasonably necessary for establishing that the waste is collected by, or on behalf of, the Director of FEH or the

person has been granted an exemption under subsection (2), as may be appropriate.”.

31. Section 17 amended (notice, etc. given by the Director)

- (1) Section 17(1)(b)—

Repeal the full stop

Substitute

“; or”.

- (2) After section 17(1)(b)—

Add

“(c) by sending it by fax transmission or electronic mail to the last known fax number or electronic mail address of the person to whom it is to be given.”.

- (3) After section 17(1)—

Add

“(1A) A notice or document given in accordance with subsection (1)(c) is deemed to have been given if a record generated by the means of communication establishes that the notice or document has been sent.”.

- (4) Section 17(2)—

Repeal

“registered”.

- (5) Section 17(2)(b)—

Repeal

“refuse transfer stations”

Substitute

“scheduled facilities”.

32. Section 18 amended (offences and penalties)

(1) Section 18(2), after “excepted”—

Add

“, 5A (other than subsection (3)(b)) or 5B (other than subsection (3)(b))”.

(2) Section 18(2)—

Repeal

“5 (subsection (3)(b) excepted),”.

33. Sections 19 and 20 added

After section 18—

Add

“19. Secretary may revise charges in Schedule

(1) The Secretary may, by notice published in the Gazette, amend the Schedule to revise the charges specified in it.

(2) The Secretary may, under subsection (1), set the charges at above cost recovery level.

20. Termination of pre-existing accounts

(1) In relation to any waste disposed of at a refuse transfer station under the pre-amended Regulation and any claims, rights, obligations or liabilities arising from the disposal, the pre-amended Regulation continues to apply as if it had not been amended by the Amendment Ordinance 2018.

(2) The pre-amended Regulation continues to apply in relation to an offence under section 18 of the pre-amended Regulation that was committed before the

transition date as if the pre-amended Regulation had not been amended by the Amendment Ordinance 2018.

(3) An application made under section 5 or 7 of the pre-amended Regulation, but not determined before the transition date, is deemed to have been withdrawn on the transition date.

(4) If the Director is satisfied that there are no outstanding charges or surcharges to be demanded from, or to be paid by, a registered account-holder registered under the pre-amended Regulation in respect of the waste disposed of before the transition date from any vehicle registered in the registered account-holder’s name, the Director must—

(a) revoke the registration of the registered account-holder within 60 days from—

(i) the date on which all outstanding charges and surcharges are paid; or

(ii) the transition date,
whichever is the later; and

(b) refund to the registered account-holder—

(i) the deposit paid by the registered account-holder under section 6(2)(a), 11(5) or 12(3)(b) of the pre-amended Regulation; or

(ii) if the deposit has been applied under section 12(1)(c) of the pre-amended Regulation—any balance.

(5) This section is in addition to, and not in derogation of, section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).

(6) In this section—

Amendment Ordinance 2018 (《2018年修訂條例》) means the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Ordinance 2018 (of 2018);

pre-amended Regulation (《未經修訂規例》) means this Regulation as in force immediately before the transition date;

transition date (轉制日期) means the date on which section 22 of the Amendment Ordinance 2018 comes into operation.”.

34. Schedule amended (charges for disposal of waste at refuse transfer stations)

(1) The Schedule—

Repeal

“CHARGES FOR DISPOSAL OF WASTE AT REFUSE TRANSFER STATIONS”

Substitute

“Part 1A

Charges for Disposal of Waste at Refuse Transfer Stations”.

(2) The Schedule—

Repeal

“[ss. 3 & 10]”

Substitute

“[ss. 2, 10 & 19]”.

(3) At the end of the Schedule—

Add

“Part 1

Scheduled Facilities and Charges for Disposal of Municipal Solid Waste

1. Interpretation

In this Schedule—

Group 1 facility (第1組設施) means—

- (a) West New Territories Landfill at Lung Kwu Tan Road, Nim Wan, Tuen Mun, New Territories;
- (b) North East New Territories Landfill at Wo Keng Shan Road, Ta Kwu Ling, New Territories;
- (c) North Lantau Transfer Station at PLA No. TW 353, Siu Ho Wan, North Lantau, New Territories; or
- (d) Outlying Islands Transfer Facilities—Ma Wan Station at Pak Wan, Ma Wan, New Territories;

Group 2 facility (第2組設施) means—

- (a) Island East Transfer Station at 10 Sun Yip Street, Chai Wan, Hong Kong;
- (b) West Kowloon Transfer Station at 1 Ngong Shung Road, Kowloon;
- (c) Island West Transfer Station at 88 Victoria Road, Kennedy Town, Hong Kong;
- (d) Northwest New Territories Transfer Station at Shun Tat Street, Yuen Long, New Territories; or
- (e) Shatin Transfer Station at 2 On Hing Lane, Sha Tin, New Territories;

Group 3 facility (第3組設施) means—

- (a) Outlying Islands Transfer Facilities—Cheung Chau Station at 1 Cheung Kwai Road, Cheung Chau, New Territories;
- (b) Outlying Islands Transfer Facilities—Mui Wo Station at 35 Mui Wo Ferry Pier Road, Mui Wo, Lantau, New Territories;
- (c) Outlying Islands Transfer Facilities—Peng Chau Station at GLA IS 296 & GLA IS 335, Tai Lei Island, Peng Chau, New Territories;
- (d) Outlying Islands Transfer Facilities—Hei Ling Chau Station at western tip of Hei Ling Chau, adjoining the cargo pier, Hei Ling Chau, New Territories;
- (e) Outlying Islands Transfer Facilities—Yung Shue Wan Station at Yung Shue Wan, Lamma Island, New Territories; or
- (f) Outlying Islands Transfer Facilities—Sok Kwu Wan Station at Sok Kwu Wan, Lamma Island, New Territories;

unweighed load (未秤載量) means a load of municipal solid waste in respect of which the Director considers that—

- (a) it is impracticable to ascertain the actual weight of the load; or
- (b) to ascertain the actual weight of the load would be likely to cause public health problems.

2. Charges for Group 1 facility

For municipal solid waste disposed of at a Group 1 facility—

- (a) from a vehicle other than a waste vehicle—
 - (i) the charge for each load of 1 tonne or less is \$365;

- (ii) the charge for each load of more than 1 tonne is \$3.65 per 0.01 tonne or part of 0.01 tonne; and
 - (iii) the charge for each unweighed load is \$365; and
- (b) from a private waste vehicle, the charge for each load is \$0.

3. Charges for Group 2 facility

For municipal solid waste disposed of at a Group 2 facility—

- (a) from a vehicle other than a waste vehicle—
 - (i) the charge for each load of 1 tonne or less is \$395;
 - (ii) the charge for each load of more than 1 tonne is \$3.95 per 0.01 tonne or part of 0.01 tonne; and
 - (iii) the charge for each unweighed load is \$395; and
- (b) from a private waste vehicle—
 - (i) the charge for each load of 1 tonne or less is \$30;
 - (ii) the charge for each load of more than 1 tonne is \$0.3 per 0.01 tonne or part of 0.01 tonne; and
 - (iii) the charge for each unweighed load is \$30.

4. Charges for Group 3 facility

For municipal solid waste disposed of at a Group 3 facility—

- (a) from a vehicle other than a waste vehicle—

- (i) the charge for each load is \$3.65 per 0.01 tonne or part of 0.01 tonne; and
 - (ii) the charge for each unweighed load is \$150; and
 - (b) from a private waste vehicle, the charge for each load is \$0.”
- (4) The Schedule—

Repeal Part 1A.

Part 4

Amendment to Waste Disposal (Charges for Disposal of Construction Waste) Regulation

35. Section 25 added

Before Schedule 1—

Add

“25. Charges at above cost recovery level

- (1) If a Schedule specifies the charges to be imposed in respect of construction waste accepted for disposal at a prescribed facility, the Secretary may, by notice published in the Gazette, amend the Schedule to revise the charges.
 - (2) The Secretary may, under subsection (1), set the charges at above cost recovery level.”
-

Part 5

Amendments to Fixed Penalty (Public Cleanliness and Obstruction) Ordinance

36. Schedule 1 amended (scheduled offence)

Schedule 1, after item 8—

Add

“9.	Section 20K(1)	Depositing non-compliant waste	\$1,500
10.	Section 20L(1)	Depositing non-compliant waste by removal services provider	\$1,500
11.	Section 20M(1)	Delivering non-compliant waste	\$1,500
12.	Section 20N(1)	Depositing labelled municipal solid waste onto private waste vehicle	\$1,500
13.	Section 20O(1)	Delivering labelled municipal solid waste to removal services provider	\$1,500
14.	Section 20P(1)	Depositing non-compliant waste in certain common areas	\$1,500”.

37. Schedule 2 amended (authorities and public officers)

(1) Schedule 2, entry relating to Authority “Director of Environmental Protection”, column 1, after “8”—

Add

“, 9, 10, 11, 12, 13, 14”.

(2) Schedule 2, entry relating to Authority “Director of Food and Environmental Hygiene”, column 1, after “7”—

Add

“, 9, 10, 11, 12, 13, 14”.

Explanatory Memorandum

The object of this Bill is to amend the Waste Disposal Ordinance (Cap. 354) (**Ordinance**) and the Waste Disposal (Refuse Transfer Station) Regulation (Cap. 354 sub. leg. M) (**Regulation**) to establish a charging scheme for the disposal of municipal solid waste. The Bill also makes related amendments to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Cap. 354 sub. leg. N) and the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570).

2. Clause 1 sets out the short title and provides for commencement.

Charging by designated bags and designated labels

3. Clause 3 amends section 2 of the Ordinance to add certain new definitions to the Ordinance, such as **municipal solid waste** and **non-compliant waste**.
4. Clause 4 adds a new Part IVB to the Ordinance to provide for the framework of the charging scheme—
 - (a) the new sections 20K, 20L, 20M and 20P create offences to prohibit delivering non-compliant waste (i.e. municipal solid waste that neither is wrapped in a designated bag nor has a designated label attached to it) to a waste collection officer or another person who is acting in the course of providing services connected with the removal of municipal solid waste (**removal services**) (see the new section 20M) and depositing non-compliant waste—
 - (i) at a refuse collection point (see the new sections 20K and 20L);
 - (ii) onto a public waste vehicle or private waste vehicle (see the new sections 20K and 20L);

- (iii) into a specified bin (see the new section 20K); and
 - (iv) in a common area of any premises that is used for depositing waste pending removal from the premises for disposal (see the new section 20P);
- (b) the new section 20N creates an offence to prohibit depositing municipal solid waste that has a designated label attached to it but that is not wrapped in a designated bag (**unwrapped waste**) onto a private waste vehicle;
- (c) the new section 20O creates an offence to prohibit delivering unwrapped waste to a person who is acting in the course of providing removal services by a private waste vehicle;
- (d) the new section 20Q provides for the following defences to charges brought against a person—
 - (i) that the person took all reasonable precautions and exercised all due diligence (applicable to an offence under the new section 20K, 20L, 20M, 20N, 20O or 20P);
 - (ii) that the person was acting at the instruction of the person's employer (applicable to an offence under the new section 20K, 20L, 20M, 20N, 20O or 20P);
 - (iii) that the non-compliant waste or unwrapped waste was disposed of in an emergency to avoid danger to the public (applicable to an offence under the new section 20K, 20L, 20M, 20N, 20O or 20P);
 - (iv) that the non-compliant waste is a bag that visibly contains only waste wrapped in designated bags (applicable to an offence under the new section 20K, 20L, 20M or 20P);

- (v) that the person honestly and reasonably believed that the non-compliant waste would not be disposed of at any scheduled facility (applicable to an offence under the new section 20K, 20L or 20M); and
- (vi) that the non-compliant waste was municipal solid waste that escaped from a designated bag that had been damaged or unfastened during processing by a compaction device or in a waste chute (applicable to an offence under the new section 20K, 20L or 20M);
- (e) the new section 20R provides for the penalty for an offence under the new section 20K, 20M, 20O or 20P;
- (f) the new section 20S provides for the Director of Environmental Protection (*Director*)'s power to—
 - (i) produce, sell and supply for free designated bags and designated labels; and
 - (ii) authorize, and revoke an authorization for, the production, sale and supply for free of designated bags and designated labels;
- (g) the new section 20T empowers the Director to specify requirements for designated bags and designated labels;
- (h) the new section 20U creates an offence to prohibit the sale of designated bags or designated labels by unauthorized persons;
- (i) the new section 20V creates offences to prohibit—
 - (i) the sale of designated bags or designated labels by authorized persons at prices other than the prices prescribed for the bags or labels in the new Schedule 14; and

- (ii) the offering of a rebate or discount in the sale of designated bags or designated labels by authorized persons;
 - (j) the new section 20W creates an offence to prohibit the supply of designated bags or designated labels for free in the course of a profit-seeking business by unauthorized persons other than persons providing or arranging for the provision of waste collection services;
 - (k) the new section 20X empowers the Director of Food and Environmental Hygiene and the Director to prescribe various signs (*prescribed signs*);
 - (l) the new section 20Y—
 - (i) requires that prescribed signs be exhibited on public waste vehicles and private waste vehicles in the prescribed way;
 - (ii) creates an offence for failing to do so; and
 - (iii) provides for a defence to the offence;
 - (m) the new section 20Z creates an offence to prohibit the improper exhibition of a prescribed sign on a vehicle and provides for a defence to the offence; and
 - (n) the new section 20ZA clarifies that a designated bag is not a plastic shopping bag to which the Product Eco-responsibility Ordinance (Cap. 603) applies.
5. Clause 5 amends section 24(1) of the Ordinance to add the new section 20S(2) and (3) to the list of provisions of the Ordinance under which decisions or directions may be made. A person aggrieved by any of those decisions or directions may appeal to the Appeal Board established under section 25 of the Ordinance.
6. Clause 6 amends section 31 of the Ordinance to add the offences created by the new sections 20K, 20L, 20M, 20N, 20O and 20P to

the list of offences under the Ordinance which do not require the prosecution to prove that the acts or omissions in question were accompanied by a mental ingredient on the part of the defendant as to any element of the offences.

7. Clauses 7 and 8 respectively amend sections 33 and 37 of the Ordinance to empower—
 - (a) the Chief Executive in Council to make regulations that impose charges for the disposal of waste, with the power to set the charges at above cost recovery level;
 - (b) the Secretary for the Environment (*Secretary*) to revise the charges specified by the regulations, with the power to set the charges at above cost recovery level; and
 - (c) the Secretary to revise the prices of designated bags and designated label prescribed in the new Schedule 14, with the power to set the prices at above cost recovery level.
8. Clause 9 adds a new Schedule 14 to the Ordinance to prescribe the prices of designated bags and designated label.
9. Clauses 36 and 37 amend the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570) to provide for a fixed penalty for offences created by the new sections 20K, 20L, 20M, 20N, 20O and 20P.

Charging by gate fees

10. Clauses 11 to 34 amend the Regulation to provide for a charging scheme that imposes gate fees on account-holders who dispose of municipal solid waste, or cause such waste to be disposed of, at landfills, transfer stations and transfer facilities (*scheduled facilities*).
11. Clause 11 amends the title of the Regulation.

12. Clause 12 amends the definitions contained in section 2 of the Regulation.
13. Clauses 14 to 20 and 23 to 26 amend sections 4 to 7 and 10 to 12 of the Regulation to provide for a charging scheme for the disposal of municipal solid waste by account-holders at scheduled facilities by using vehicle-based and non-vehicle-based accounts.
14. Clauses 27 and 28 amend section 13 of the Regulation to provide for the revocation of registered accounts and the Director's duty to give written notice of a revocation of registration.
15. Clause 30 amends section 16 of the Regulation to empower the Director to grant exemptions from the charges for the disposal of municipal solid waste at scheduled facilities.
16. Clause 31 amends section 17 of the Regulation to empower the Director to give a notice or document required or authorized to be given under the Regulation by fax or email.
17. Clause 33 adds a new section 19 to the Regulation, which empowers the Secretary to revise the charges specified in the Schedule to the Regulation for the disposal of municipal solid waste at scheduled facilities, with the power to set the charges at above cost recovery level. That clause also adds a new section 20 to the Regulation to provide for transitional arrangements under which pre-existing accounts for the disposal of waste at refuse transfer stations will be terminated.
18. Clause 34 renames the existing content of the Schedule to the Regulation as Part 1A and adds a new Part 1 to the Schedule to prescribe the charges payable for the disposal of municipal solid waste at scheduled facilities. That clause also repeals that Part 1A when the new charging scheme comes into operation.
19. Clauses 13, 21, 22, 29 and 32 make related amendments to the Regulation.

Other amendment

20. Clause 35 adds a new section 25 to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Cap. 354 sub. leg. N) to empower the Secretary to revise the charges for the disposal of construction waste, with the power to set the charges at above cost recovery level.

**Provision of Free Collection Service
for Waste Plastics and Food Waste**

Waste plastics

The Environmental Protection Department (EPD) plans to roll out a two-year pilot scheme in three districts¹ to provide free collection service for waste plastics (including waste plastic beverage containers and other types of waste plastics) from public and private housing estates, schools, public organisations, and the EPD's Community Recycling Centres (CRCs) and Community Green Stations (CGSs), etc. In the longer run, having regard to the outcome of the review on the said pilot scheme and the progress of development of the Producer Responsibility Scheme on plastic beverage containers, we will consider expanding the free collection service for non-commercial and industrial (C&I) waste plastics across all districts in the whole territory.

2. The EPD will engage contractors through open tender. The contractors will be required to directly collect waste plastics mainly from public and private housing estates, schools, public organisations and EPD's CRCs and CGSs, etc., for further treatment, such as sorting, shredding, cleaning, and melting to produce recycled raw materials or products so that they can be exported or supplied to the local market to ensure proper handling of the collected waste plastics. As clean waste plastics will be collected and handled separately from other waste to be disposed of, they will not be subject to MSW charges.

Food waste

3. To promote food waste recycling, encourage the community to practise waste separation at source and relieve burden on landfills, we propose providing funding for the provision of food waste collection service covering C&I and domestic sectors in the longer run. Food waste not mixed with other waste will be collected separately and hence will not be subject to MSW charges. As food waste recycling facilities will take time to be developed and collection of food waste from different types of residential premises is far more complicated than that from the C&I sectors, we propose to accord priority to the free collection service for the

¹ We initially consider choosing one district each from Hong Kong Island, Kowloon and the New Territories respectively, including Eastern, Kwun Tong and Shatin.

C&I sectors. We are now carrying out a consultancy study on the future operational mode for the collection of food waste, especially the means to collect domestic food waste. It is expected that the study will be completed around early 2019.

4. To test out the practicality and feasibility of providing food waste collection service, we propose to roll out a pilot scheme for collecting food waste, starting from some C&I premises, in late 2019 after making the necessary preparation. Subject to the experiences gained, the progress of developing food waste recovery centres in Hong Kong and taking into account the time required to develop the necessary waste treatment capacities, we envisage that free collection service for food waste can start to be expanded to other premises starting from 2022, with a view to eventually providing territory-wide free collection service for food waste from all sectors including C&I and domestic sectors.

Reverse Vending Machines



2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

analyst (化驗師) means the Government Chemist or any person appointed by the Governor under section 23E(5); (*Added 58 of 1987 s. 2*)

animal waste (動物廢物) means—

- (a) the manure or urine of any animal; or
- (b) any dead animal or any part of any dead animal not fit for, or not intended for, human consumption; or
- (c) any bedding, straw or other waste contaminated by the manure or urine of any animal, (*Replaced 58 of 1987 s. 2*)

but does not include clinical waste; (*Amended 6 of 2006 s. 2*)

authorized officer (獲授權人員) means a public officer authorized under section 23A; (*Added 58 of 1987 s. 2*)

chemical waste (化學廢物) means any substance, matter or thing defined as chemical waste by regulations made under section 33; (*Added 86 of 1991 s. 3*)

clinical waste (醫療廢物) means waste consisting of any substance, matter or thing belonging to any of the groups specified in Schedule 8 that is generated in connection with—

- (a) a dental, medical, nursing or veterinary practice;
- (b) any other practice, or establishment (howsoever described), that provides medical care and services for the sick, injured, infirm or those who require medical treatment;
- (c) dental, medical, nursing, veterinary, pathological or pharmaceutical research; or
- (d) a—
 - (i) dental;
 - (ii) medical;
 - (iii) veterinary; or
 - (iv) pathological, laboratory practice,

but does not include chemical waste or radioactive waste; (*Added 6 of 2006 s. 2*)

Code of Practice (工作守則) means any Code of Practice prepared or revised by the Secretary under section 35; (*Added 58 of 1987 s. 2. Amended L.N. 244 of 1989; 78 of 1999 s. 7*)

collection authority (廢物收集當局) means—

- (a) in relation to chemical waste and clinical waste, the Director; (*Amended 6 of 2006 s. 2*)
- (b) in relation to any other waste, means the Director of Food and Environmental Hygiene and the Director; (*Replaced 78 of 1999 s. 7. Amended L.N. 183 of 2000*)

construction waste (建築廢物) means any substance, matter or thing defined as construction waste by regulations made under section 33, but does not include chemical waste; (*Added 17 of 2004 s. 2*)

designated waste disposal facility (指定廢物處置設施) has the same meaning as in section 2 of the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg. L); (*Added 17 of 2004 s. 2*)

Director (署長) means the Director of Environmental Protection; (*Added L.N. 74 of 1986*)

disposal (處置)—

- (a) in relation to chemical waste and clinical waste, includes treatment, reprocessing and recycling; and
- (b) in relation to e-waste, includes storage, treatment, reprocessing and recycling, but does not include repair; (*Replaced 3 of 2016 s.12*)

enlarged area (放大區) means those parts of—

- (a) a livestock waste prohibition area;
- (b) a livestock waste control area; or (*Amended 28 of 1994 s. 2*)
- (c) a livestock waste restriction area, (*Added 28 of 1994 s. 2*)

specified in the third column of the Third Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry, which abut or share a common boundary with one or more livestock waste control areas or one or more livestock waste restriction areas; (*Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2*)

e-waste (電器廢物) means any electrical equipment or electronic equipment that, judging by its appearance, is an item set out in column 2 of Schedule 6 to the Product Eco-responsibility Ordinance (Cap. 603) and has been abandoned; (*Added 3 of 2016 s. 12*)

exempt person (獲豁免的人) means any person or any classes of person specified in the Fourth Schedule; (*Added 58 of 1987 s. 2*)

household waste (住戶廢物) means waste produced by a household, and of a kind that is ordinarily produced by a dwelling when occupied as such;

keep (飼養) includes breed, house, tend, look after or control and **kept** and **keeping** shall be construed accordingly; (*Added 58 of 1987 s. 2*)

lairage (圍欄) means that part of a slaughterhouse or abattoir used for the admission or confinement of animals; (*Added 58 of 1987 s. 2*)

livestock (禽畜) means pigs or poultry; (*Added 58 of 1987 s. 2*)

livestock keeper (禽畜飼養人) means—

- (a) an owner of livestock; or
- (b) an owner, lessee or occupier or person responsible for the management of livestock premises; or
- (c) any person keeping livestock or having the custody or possession of livestock; or
- (d) any former livestock keeper,

but does not comprise exclusively any exempt person; (*Added 58 of 1987 s. 2*)

livestock premises (禽畜飼養場) means—

- (a) any premises, buildings, land or land covered by water owned, leased or occupied by a livestock keeper, his dependants or employees for the purpose of keeping livestock and any dwelling-place and ancillary buildings or structures connected therewith;
- (b) any other premises in or on which livestock are kept other than any premises comprising any abattoir, slaughterhouse, market, fresh provision shop, lairage or hatchery in which poultry of not more than 12 days old are kept; and
- (c) any former livestock premises; (*Added 58 of 1987 s. 2*)

livestock waste (禽畜廢物) means, subject to section 2A, animal waste produced by, or connected with, livestock; (*Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2*)

livestock waste control area (禽畜廢物管制區) means a livestock waste control area specified in the second column of the Second Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry; (*Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2*)

livestock waste prohibition area (禽畜廢物禁制區) means a livestock waste prohibition area specified in the second column of the First Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry; (*Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2*)

livestock waste restriction area (禽畜廢物限制區) means a livestock waste restriction area specified in column 2 of the Fifth Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry; (*Added 28 of 1994 s. 2*)

livestock waste treatment plant (禽畜廢物處理裝置) means a waste treatment plant at which livestock waste is treated by biological, chemical, physical or other means or any combination thereof in accordance with regulations made under section 33; (*Added 58 of 1987 s. 2*)

poultry (家禽) means chickens, ducks, geese, pigeons and quail; (*Added 58 of 1987 s. 2*)

private lot (私人地段) means a piece or parcel of ground held under a Government lease and identified by a lot number as defined by regulation 2 of the Land Registration Regulations (Cap. 128 sub. leg. A); (*Added 19 of 2013 s. 3*)

relevant date (有關日期) means—

- (a) in the case of a livestock waste prohibition area, the date shown in the third column of the First Schedule in respect of that area; or
- (b) in the case of a livestock waste control area, the date shown in the third column of the Second Schedule in respect of that area; (*Added 58 of 1987 s. 2*)

Secretary (局長) means the Secretary for the Environment; (*Added 78 of 1999 s. 7. Amended L.N. 106 of 2002; L.N. 130 of 2007*)

slaughterhouse (屠房) and **abattoir** (屠場) has the meaning assigned to it in the Public Health and Municipal Services Ordinance (Cap. 132); (*Added 58 of 1987 s. 2*)

street waste (街道廢物) means dust, dirt, rubbish, mud, road scapings or filth, but does not include human excretal matter;

trade waste (行業廢物) means waste from any trade, manufacture or business, but does not include animal waste, chemical waste, clinical waste or construction waste; (*Replaced 17 of 2004 s. 2. Amended 6 of 2006 s. 2*)

waste (廢物) means any substance or article which is abandoned and includes animal waste, chemical waste, clinical waste, construction waste, e-waste, household waste, livestock waste, street waste and trade waste; (*Amended 86 of 1991 s. 3; 17 of 2004 s. 2; 6 of 2006 s. 2; 3 of 2016 s. 12*)

waste collection licence (廢物收集牌照) means a licence under section 10;

waste disposal authority (廢物處置當局), in respect of all classes of waste, means the Director; (*Replaced L.N. 74 of 1986*)

waste disposal licence (廢物處置牌照) means a licence under section 16;

waste treatment plant (廢物處理裝置) means a plant at which waste is treated for the purpose of removing therefrom (wholly or in part) pollutants contained therein. (*Added 58 of 1987 s. 2*)

(*Amended 78 of 1999 s. 7*)

(2) For the purposes of this Ordinance any substance or article which is discarded or otherwise dealt with as waste shall be presumed to be waste until the contrary is proved.

24. When appeal may be brought

(1) A person who is aggrieved by a decision or direction of a public officer or a collection authority or waste disposal authority or the Director under any of the following provisions may appeal to the Appeal Board established under section 25 — (*Amended 86 of 1991 s. 11*)

(aa) section 15F (refusing to grant or revocation of written authorization); (*Added 28 of 1994 s. 20*)

(ab) section 15G (directions as to livestock waste pollution); (*Added 28 of 1994 s. 20*)

(a) section 17(1) (directions as to disposal of waste);

(b) sections 20A(3) and 20B(3) (refusing to issue a permit for the import of waste into or the export of waste from Hong Kong or fixing the conditions of such a permit (including any condition deemed to apply by virtue of section 20D)); (*Replaced 14 of 1995 s. 5*)

(ba) section 20C(1)(a) (varying, suspending or revoking a permit); (*Added 14 of 1995 s. 5*)

(bb) section 20C(1)(b) (revoking the suspension of a permit); (*Added 14 of 1995 s. 5*)

(bc) section 20DA(4)(a) (fixing the conditions of an authorization for disposal of imported waste); (*Added 6 of 2006 s. 19*)

- (bd) section 20DA(4)(b) (refusing to grant an authorization for disposal of imported waste); (*Added 6 of 2006 s. 19*)
 - (c) sections 21(4) and 21A (refusing to grant a licence); (*Amended 86 of 1991 s. 11*)
 - (d) section 23(1) (fixing terms and conditions of licence);
 - (e) section 23(3)(a)(i) (imposing new or amended terms or conditions for continuance of licence);
 - (f) sections 23(3)(a)(ii) and 23(3)(b) (cancelling a licence);
 - (g) section 23(3)(c) (revoking, amending or adding to a notice). (*Amended 86 of 1991 s. 11; 17 of 2004 s. 6*)
 - (h) (*Repealed 17 of 2004 s. 6*)
- (1A) Subject to subsection (1B), a person who is aggrieved by a decision or direction of the Director made pursuant to regulations made under section 33 may also appeal to the Appeal Board established under section 25. (*Added 17 of 2004 s. 6*)
- (1B) No appeal lies under subsection (1A) from any of the following—
- (a) the Director’s decision whether or not to accept any waste at a designated waste disposal facility;
 - (b) the Director’s decision whether or not a charge is to be imposed in respect of any waste or class of waste accepted for disposal at a waste disposal facility as may be prescribed by regulations made under section 33. (*Added 17 of 2004 s. 6*)
- (2) An appeal under subsection (1) or (1A) shall be made within 21 days after the person aggrieved has received notice of the decision or direction. (*Amended 17 of 2004 s. 6*)
- (3) Where the decision appealed from was made under a provision mentioned in subsection (1)(e), (f) or (g) the notice thereof shall be suspended from the day on which notice of appeal is given and until the appeal is disposed of, withdrawn or abandoned, unless—
- (a) the decision is considered by the authority whose decision it is to be necessary because in relation to a licence to which the notice relates the continuation of the activities to which the notice relates would cause a danger to public health or be seriously detrimental to the amenities of the area affected by the activities; and
 - (b) the notice contains a statement to that effect.
- (4) No appeal may be made under subsection (1)(ab) except on the following grounds—
- (a) that the service of the notice is not justified by the terms of this Ordinance;
 - (b) that there has been some material informality, defect or error in the form or content of the notice or in connection with the service of the notice; or
 - (c) that the notice should have been served on some person other than the appellant. (*Added 28 of 1994 s. 20*)

31. Mental ingredients of certain offences under the Ordinance

In any proceedings for an offence under section 11, 15, 15A, 15AA, 16, 16A, 16B, 16C(7), 17, 18A, 20E or 23 it shall not be necessary for the prosecution to prove that the acts or omissions in question

were accompanied by any intention, knowledge or negligence on the part of the defendant as to any element of the offence.

(Amended 58 of 1987 s. 10; 28 of 1994 s. 21; 14 of 1995 s. 7; 17 of 2004 s. 7; 19 of 2013 s. 8)

33. Regulations

- (1) The Governor in Council may after consultation with the Advisory Council on the Environment by regulation provide for— *(Amended L.N. 165 of 1984; 8 of 1986 s. 8; L.N. 57 of 1994; 78 of 1999 s. 7)*
 - (a) the additional wastes or classes of waste to which a draft waste disposal plan under section 3 shall apply;
 - (b) the design and construction of containers or enclosures for the storage of animal waste;
 - (ba) the capacity, design, type, number, construction and materials used in the construction of containers provided in or on livestock premises for the storage of livestock waste; *(Added 58 of 1987 s. 11)*
 - (bb) the capacity, design, type, number, construction and materials used in the construction of containers provided outside livestock premises for the collection of livestock waste; *(Added 58 of 1987 s. 11)*
 - (c) the precautions to be taken to guard against dangers to public health or risks of pollution arising from waste;
 - (ca) the authorization of any person to provide services for the collection or removal of chemical waste or clinical waste without a licence for that purpose; *(Added 6 of 2006 s. 20)*
 - (d) the waste or classes of waste that may be disposed of under section 16 without a licence;
 - (da) the authorization of any person to use any land or premises for the disposal of chemical waste or clinical waste without a licence for that purpose; *(Added 6 of 2006 s. 20)*
 - (e) any substance, matter or thing to be defined as chemical waste with reference to such substance or chemical as may be prescribed and exceptions thereto, including the exception of any substance, matter or thing—
 - (i) of a class or description specified by the Director by notice in the Gazette; or
 - (ii) which the Director is satisfied having regard to such criteria or procedures as may be prescribed, does not constitute a danger to health or risk of pollution to the environment; *(Replaced 86 of 1991 s. 12)*
 - (eaa) any substance, matter or thing to be defined as construction waste; *(Added 17 of 2004 s. 8)*
 - (ea) the class, quantity or other description of waste in respect of which notice is to be given under section 17; *(Added 86 of 1991 s. 12)*
 - (eb) exemptions or exclusions from the requirement to give notice under section 17 or from the regulations or any requirement of the regulations; *(Added 86 of 1991 s. 12. Amended 6 of 2006 s. 20)*

- (ec) the registration of persons producing or causing to be produced any waste, the keeping of a register or registers by the Director for that purpose and the particulars to be entered in any such register or registers; (*Added 86 of 1991 s. 12*)
- (ed) applications for registration and other procedures relating to registration; (*Added 86 of 1991 s. 12*)
- (ee) the inspection of the register in such places and at such times as may be determined by the Director and the issue by him of certified copies of entries in the register; (*Added 86 of 1991 s. 12*)
- (ef) the amendment of the register by the Director and the assignment, amendment or cancellation by him of registration numbers; (*Added 86 of 1991 s. 12*)
- (eg) prohibitions against producing or causing to be produced any waste by an unregistered person and the invalidity of the transfer of any registration; (*Added 86 of 1991 s. 12*)
- (f) the capacity, design, construction and materials to be used in the construction of containers holding beverages or fluids;
- (g) prohibiting the distribution of containers or any class of container which do or does not comply with such requirements as may be prescribed under paragraph (f), and without prejudice to the generality of the foregoing, such prohibition may be by reference to—
 - (i) the type of container;
 - (ii) the date of distribution;
 - (iii) place of distribution by retail sale;
 - (iv) the type of beverage or fluid;
 - (v) the source of the container;
- (h) the storage of any waste, the places, manner and conditions in which it is to be stored including—
 - (i) requirements as to containers for storage;
 - (ii) the labelling of such containers;
 - (iii) specifications of and particulars to be contained in such labels;
 - (iv) the display of notices in places of storage;
 - (v) specifications of and particulars to be contained in such notices; and
 - (vi) the maximum quantity of waste that may be stored; (*Replaced 86 of 1991 s. 12*)
- (ha) the collection, removal, transportation, transfer, reception, import or export or disposal, including treatment, reprocessing and recycling of any waste including in particular the equipment to be used, the arrangements to be made and the procedure to be observed in relation to such activities; (*Added 86 of 1991 s. 12. Amended 6 of 2006 s. 20*)
- (haa) (without limiting the generality of paragraph (ha)) in relation to clinical waste—
 - (i) the restriction on the class or classes of persons who may deliver or transport clinical waste in prescribed circumstances;

- (ii) the type and the quantity of clinical waste that may be so delivered or transported;
- (iii) the requirements to be observed in relation to the delivery or transportation; (*Added 6 of 2006 s. 20*)
- (hb) the duties of any person producing, causing to be produced, or in possession of any waste or engaged in or connected with any activity described in paragraph (ha); (*Added 86 of 1991 s. 12*)
 - (i) any fees and charges payable under this Ordinance; (*Amended 8 of 1986 s. 8; 78 of 1999 s. 7*)
 - (j) the charges payable to the Director for any service provided by or on behalf of the Crown in relation to the collection, removal, transportation, transfer, reception or disposal (including treatment, reprocessing or recycling) of any waste or class of waste; (*Replaced 14 of 1995 s. 8*)
 - (ja) the procedure for appeals under Part VI and the forms to be used in relation to such appeals; (*Added 86 of 1991 s. 12*)
 - (jb) the service of any notice under this Ordinance; (*Added 14 of 1995 s. 8*)
 - (k) prescribing anything which is to be or may be prescribed by regulations;
 - (l) different requirements in relation to wastes of different classes or descriptions; (*Added 86 of 1991 s. 12*)
 - (m) generally carrying into effect the provisions of this Ordinance. (*Added 86 of 1991 s. 12*)
- (1A) Regulations made under this section may—
 - (a) empower the Director—
 - (i) to issue any document, in such form as he may determine, to be used in relation to the production, possession, collection, transportation, transfer, reception, import or export or disposal including treatment, reprocessing or recycling of any waste;
 - (ii) in such document to specify particulars or information to be supplied by any person engaged in or connected with any activity referred to in subparagraph (i);
 - (iii) without prejudice to subparagraph (ii), to require from any person specified in the regulations information as he may consider appropriate relating to any activity referred to in subparagraph (i);
 - (iv) to specify additional particulars in respect of any labels required pursuant to subsection (1)(h);
 - (v) to require the removal from any place of any waste which in his opinion is a threat to the health or safety of any person or constitutes a risk of pollution to the environment;
 - (vi) to approve or otherwise—
 - (A) arrangements made for the disposal of chemical waste or clinical waste in circumstances as may be prescribed; or (*Amended 6 of 2006 s. 20*)
 - (B) storage of waste in excess of a prescribed maximum quantity;

- (vii) to grant exemptions with or without conditions from the regulations or any specified provision of the regulations; (*Amended 6 of 2006 s. 20*)
- (viii) to determine or specify the form of any document (not being a document the form of which is prescribed) required for the purposes of the regulations;
- (ix) to authorize (with or without conditions) any person of a class specified in a regulation made under subsection (1)(ca)—
 - (A) to receive clinical waste at such location as the Director may specify in his authorization; and
 - (B) to remove the waste so received in such manner as may be prescribed; (*Added 6 of 2006 s. 20*)
- (x) to authorize (with or without conditions) any person to collect or remove any chemical waste or clinical waste without a waste collection licence for that purpose if the Director opines that—
 - (A) an emergency involving the waste has arisen; or
 - (B) the circumstances are such that it would not be reasonably practicable to arrange for the waste to be collected or removed by the holder of such a licence; or (*Added 6 of 2006 s. 20*)
- (xi) to authorize (with or without conditions) any person to use any land or premises for the disposal of any chemical waste or clinical waste without a waste disposal licence for that purpose if the Director opines that—
 - (A) an emergency involving the waste has arisen; or
 - (B) the circumstances are such that it would not be reasonably practicable to use, for the disposal of the waste, any land or premises in respect of which such a licence is in force; (*Added 6 of 2006 s. 20*)
- (b) provide—
 - (i) in respect of chemical waste, that notwithstanding that regulations relating thereto have come into operation, they or any provision thereof shall not apply to such waste until a day appointed by the Director by notice in the Gazette for the purpose and that he may appoint different days with reference to any chemical or substance prescribed under subsection (1)(e) or a chemical or substance which is included in or is a constituent or component of such chemical or substance;
 - (ii) that any requirement to register imposed on a person pursuant to the regulations shall not apply to such persons and for such period or under such circumstances as may be prescribed. (*Added 86 of 1991 s. 12*)

- (1B) Without prejudice to the generality of subsection (1)(j), regulations made under that subsection may—
- (a) provide for different levels of charges to be payable for waste received at different facility, transfer, reception or disposal points or for waste delivered in different types of vehicle; (*Amended 17 of 2004 s. 8*)
 - (b) where any service referred to in that subsection is provided in response to an accident or emergency involving waste (and whether or not in consequence of the accident or emergency there is an imminent danger to any person or property), provide for different or additional charges than would be the case where any such service is provided otherwise than in response to such an accident or emergency;
 - (c) where any charge (including part of any charge) prescribed under that subsection remains unpaid after becoming due and payable, provide for the imposition of a surcharge not exceeding 20% of that charge;
 - (d) provide for the recovery of any charge (including any surcharge) prescribed under that subsection. (*Added 14 of 1995 s. 8*)
- (2) Regulations under this section may provide—
- (a) that—
 - (i) a contravention of any specified provision thereof; or
 - (ii) to knowingly or recklessly provide incorrect or misleading information or omit material particulars or information or knowingly or recklessly certify as correct anything which is incorrect, in relation to any requirement in the regulations,

shall be an offence punishable with a fine not exceeding \$200,000 and imprisonment not exceeding 6 months; and
 - (b) that if a person is convicted of an offence referred to in paragraph (a) and that offence is a continuing offence, such person shall, in addition to the penalties which may be imposed under that paragraph, be liable to a fine of \$10,000 for each day on which the offence continues. (*Replaced 86 of 1991 s. 12*)
- (3) Regulations under this section may, in respect of any charge payable to the Director incurred or to be incurred under this Ordinance, provide for—
- (a) the Director to authorize the deferral of payment of the charge for a period specified by the Director and, in that connection, to specify the security (if any) to be furnished to and received by the Director as guarantee for payment of the deferred charge;
 - (b) the appointment by the Director of a person to collect on the Director's behalf the charge or any security referred to in paragraph (a);
 - (c) methods of the collection of the charge or security by the Director or by any person appointed under paragraph (b) and the manner in which a charge or security so collected should be accounted for. (*Added 10 of 1997 s. 3*)
- (4) Regulations under this section may, as regards any premises used for or in connection with the collection, removal, transportation, transfer, reception or disposal (including treatment, reprocessing or recycling) of waste (which activities

are referred to in this subsection as *relevant activities* (有關活動))—

- (a) provide for—
 - (i) the regulation of traffic within, entering or leaving the premises;
 - (ii) the safety of persons present in the premises;
 - (iii) the avoidance of any nuisance or any risk of damage to health or the environment arising from the carrying on of any activity in the premises;
 - (iv) the prevention of any disruption to the operation of the premises or the carrying out of any relevant activity in the premises;
 - (v) measures to prevent or deter the commission of any offence under this Ordinance in or in relation to the premises;
 - (vi) means of detecting the commission of any offence against this Ordinance in or in relation to the premises;
 - (vii) measures to deter the evasion of any charges payable under this Ordinance in connection with a relevant activity in the premises;
- (b) confer on the Director such powers as may be necessary or expedient for achieving the purposes specified in paragraph (a)(i) to (vii);
- (ba) confer on the Director the power—
 - (i) to refuse to accept any waste at a designated waste disposal facility in such circumstances as the Director may think fit;
 - (ii) to determine whether a charge is to be imposed in respect of any waste or class of waste accepted for disposal at a waste disposal facility as may be prescribed by regulations made under this section;
 - (iii) to require any person who delivers any waste to a designated waste disposal facility to state the nature of the waste and give such other information as the Director may consider necessary to determine whether or not to accept the waste at that facility;
 - (iv) to close temporarily any designated waste disposal facility for a specified period of time; (*Added 17 of 2004 s. 8*)
- (c) authorize the Director—
 - (i) to delegate—
 - (A) any person charged with carrying out or assisting in the carrying out of any relevant activity in such premises, or any person employed by such person; or
 - (B) any person charged with the collection of charges payable to the Director under this Ordinance or any person employed by such person,
to exercise any of the powers conferred on the Director by regulations made under paragraph (b);
 - (ii) to give directions of a general character to any person such as is specified in subparagraph (i) in relation to the performance of functions or the

exercise of powers vested by this Ordinance.

(Added 10 of 1997 s. 3)

- (5) Regulations under this section—
- (a) may require the disclosure by a third person of information concerning the identity of any person who, being the driver of a vehicle, is suspected of having committed an offence against this Ordinance and may provide for the admission into evidence in proceedings for an offence under this Ordinance of information so obtained as proof of the identity of the driver of a vehicle at the time of the offence;
 - (b) may provide, for the purposes of any criminal proceedings under this Ordinance or any civil proceedings under this Ordinance, including proceedings for the recovery of any charge payable under this Ordinance, for the admission into evidence of any document—
 - (i) produced by means of an image recording or printing device; or
 - (ii) purporting to be a record concerning such a device, as proof of the matters contained in such document.
- (Added 10 of 1997 s. 3)*
- (6) If a Schedule to any regulations made under this section specifies—
- (a) the premises used for or in connection with any of the relevant activities referred to in subsection (4);
 - (b) the charges to be imposed in respect of any construction waste accepted for disposal at a waste disposal facility as may be prescribed by the regulations; *(Amended 3 of 2016 s. 19)*
 - (ba) the fees for permits, authorizations or licences; or *(Added 3 of 2016 s. 19)*
 - (c) the types of waste to be accepted at the premises for the disposal of waste,
- the regulations containing the Schedule may provide that the Secretary may, by notice published in the Gazette, amend the Schedule. *(Added 17 of 2004 s. 8)*

37. Amendment of Schedules

- (1) The Chief Executive in Council may, by notice published in the Gazette, amend the First, Second, Third, Fourth and Fifth Schedules and Schedule 8. *(Replaced 6 of 2006 s. 21)*
- (2) The Director may, by notice published in the Gazette, specify as wastes that belong to Group 6 of Schedule 8 any wastes that, in his opinion—
 - (a) are likely to be contaminated with infectious materials from patients falling within such case definition as specified in the notice; and
 - (b) may pose a significant health risk. *(Replaced 6 of 2006 s. 21)*
- (2A) The Director may, by notice published in the Gazette, amend the list of pathogens listed in Group 4 of Schedule 8 and Schedules 10 and 11. *(Added 6 of 2006 s. 21)*
- (2B) The Secretary may, by notice published in the Gazette, amend
—

- (a) the relevant dates specified in the First, Second and Fifth Schedules;
 - (b) Schedules 9 and 13. (*Added 6 of 2006 s. 21. Amended 19 of 2013 s. 9*)
- (3) Subject to the approval of the Financial Secretary, the Secretary may, by notice published in the Gazette, amend Schedule 12. (*Added 17 of 2004 s. 9*)

(Added 58 of 1987 s. 13)

**WASTE DISPOSAL (REFUSE TRANSFER STATION)
REGULATION**

(Cap. 354 section 33)

[25 February 1998] *L.N. 40 of 1998*1. *(Omitted as spent)***2. Interpretation**

In this Regulation, unless the context otherwise requires—

“contractor (other than a station operator)” (承辦商 (轉運站經營人除外)) means any person, other than a station operator, who has entered into an agreement with the Government or with a station operator for the carrying out of an activity or the provision of a service in connection with the operation or management of a refuse transfer station;

“designated officer” (指定人員) means a person appointed by the Director under section 14;

“gross vehicle weight” (車輛總重) and “permitted gross vehicle weight” (許可車輛總重) have the same meaning as assigned to them under section 2 of the Road Traffic Ordinance (Cap. 374);

“non-peak hours” (非繁忙時間) means the periods from 7:30 a.m. and up to 8 a.m. and after 9 a.m. and up to 11:30 p.m.;

“peak hours” (繁忙時間) means the period after 8 a.m. and up to 9 a.m.;

“refuse transfer station” (廢物轉運站) means a station at which waste is processed for the purpose of transmission for disposal elsewhere;

“registered account-holder” (登記帳戶戶主) means, in relation to a refuse transfer station, a person registered as a registered account-holder for that refuse transfer station under section 6;

“registered owner” (登記車主) has the same meaning as assigned to it under section 2 of the Road Traffic Ordinance (Cap. 374);

“registered vehicle” (登記車輛) means, in relation to a refuse transfer station, a vehicle registered for that refuse transfer station under section 6;

“registration mark” (登記號碼) has the same meaning as assigned to it under section 2 of the Road Traffic Ordinance (Cap. 374);

“service conditions” (服務條件) means, in relation to a registered account-holder, the terms and conditions specified for the time being in relation to that registered account-holder under section 6;

“station operator” (轉運站經營人) means any person who has entered into an agreement with the Government for the operation or management of a refuse transfer station;

“unacceptable waste” (不予接受的廢物) means any waste specified as such by the Director in service conditions.

3. Application

This Regulation applies to the refuse transfer stations specified in column 2 of the Schedule.

4. Disposal of waste at refuse transfer stations

- (1) A person shall not dispose of waste at a refuse transfer station unless—
 - (a) it is disposed of from a vehicle;
 - (b) the registered owner of the vehicle is registered as a registered account-holder for that refuse transfer station; and
 - (c) the vehicle is registered in the name of that account-holder for the refuse transfer station.
- (2) Subsection (1) shall not apply to any person—
 - (a) disposing of waste from a vehicle owned by the Government;
 - (b) *(Repealed 78 of 1999 s. 7)*
 - (c) disposing of waste collected by or on behalf of the Director of Food and Environmental Hygiene or the Director of Leisure and Cultural Services. *(L.N. 183 of 2000)*

5. Application for registration

- (1) A person may make an application to the Director—
 - (a) to be registered as a registered account-holder for the purpose of disposing of waste at refuse transfer stations; and
 - (b) to register in his name one or more vehicles of which he is the registered owner to be used for the disposal of waste at refuse transfer stations.
- (2) An application under subsection (1) shall—
 - (a) be made in writing and in a manner and form specified by the Director; and
 - (b) contain the particulars, information and supporting materials the Director reasonably requires to enable him to determine the application.
- (3) The Director may under subsection (2)(b) require, in particular, the applicant to specify—
 - (a) the refuse transfer station or stations at which waste is intended to be disposed of;
 - (b) the estimated amount of waste that is intended to be disposed of at the refuse transfer station or stations monthly;
 - (c) the nature of the waste;
 - (d) the registration mark or marks of the vehicle or vehicles that are to be used for the disposal of waste at the refuse transfer station or stations.
- (4) In considering the application, the Director may by notice in writing to the applicant require the applicant to supply to him with such further particulars, information and supporting materials as are reasonably necessary to enable him to determine the application as may be specified in the notice within such time as may be so specified.

6. Director may register account-holders and vehicles

- (1) Where the Director is satisfied that the applicant is a fit and proper person to be registered as a registered account-holder of refuse transfer stations and that the vehicle or vehicles specified in his application are suitable for disposing of waste at refuse transfer stations, he may register the applicant as a registered account-holder at specified refuse transfer stations, and the vehicle or vehicles as registered in his name.
- (2) The Director may impose such terms and conditions for registration as he thinks fit including, without limiting the generality of the foregoing, terms and conditions—
 - (a) requiring the applicant to pay to the Director a deposit of such amount as the Director may specify in the notice under subsection (5) as security for payment of charges and surcharges under this Regulation within such time as may be so specified;
 - (b) limiting the registration of that person, or of a vehicle registered in his name, to a particular refuse transfer station.
- (3) The Director shall specify the terms and conditions imposed under subsection (2) in the notice under subsection (5) and may from time to time by notice in writing given to the registered account-holder impose, vary or revoke any term or condition.
- (4) The Director may refuse to register as a registered account-holder any person who—
 - (a) fails to supply the particulars, information and supporting materials in accordance with subsection (2)(b) or (4) of section 5;
 - (b) supplies any false particulars, information or supporting materials; or
 - (c) has incurred any charge or surcharge under this Regulation and, as at the date of his application under section 5, has not paid it.
- (5) The Director shall, by notice in writing given to the applicant, inform the applicant of his decision to register or refuse to register him as a registered account-holder and shall, in the case of a refusal, state the reasons for refusal.
- (6) Where—
 - (a) a registered account-holder anticipates that the amount of waste that will be disposed of at the refuse transfer station or stations monthly will change substantially compared with the amount he has previously notified to the Director;
 - (b) a registered account holder anticipates that the nature of the waste that will be disposed of at the refuse transfer station or stations will change; or
 - (c) any change in other particulars, information or supporting materials contained in the application for registration occurs,he shall as soon as reasonably practicable notify the Director of the change, giving details of the change sufficient for the Director to assess the adequacy of the deposit.

7. Registration of additional vehicle, etc.

- (1) A registered account-holder may at any time apply to the Director to—
 - (a) remove any vehicle registered in his name from registration;
 - (b) register in his name, either in substitution of a vehicle removed from registration under paragraph (a) or as an additional vehicle, a vehicle of which he is the registered owner,and sections 5 and 6 shall, subject to necessary modification, apply to an application under paragraph (b).
- (2) Where a registered account-holder ceases to be the registered owner of a vehicle already registered in his name under section 6, he shall immediately notify the Director and the registered account-holder remains liable for all charges and surcharges incurred under this Regulation before the Director is so notified for disposal of waste from the vehicle notwithstanding the cessation.

8. Register of account-holder

The Director shall establish and maintain a register in such form and containing such information with respect to persons and vehicles registered under section 6 as he thinks fit.

9. Recording of weight and time at weighbridge

A person intending to dispose of waste at a refuse transfer station from a vehicle shall take such reasonable steps as may be necessary for ensuring that—

- (a) the time when the vehicle enters the in-weighbridge of the refuse transfer station and the gross vehicle weight of the vehicle prior to the disposal is recorded at the in-weighbridge computer; and
- (b) the gross vehicle weight of the vehicle after the disposal is recorded at the out-weighbridge computer.

10. Charges for disposal of waste

- (1) Subject to subsection (2), a registered account-holder shall for each load of waste disposed of at a refuse transfer station from his registered vehicle pay to the Director charges according to the weight of the load.
- (2) Where any person disposes of waste at a refuse transfer station from a registered vehicle without complying with section 9, the registered account-holder in whose name the vehicle is registered shall for each load of waste disposed of pay to the Director charges as if the weight of the load of waste disposed of were—
 - (a) the gross vehicle weight of the vehicle at the in-weighbridge prior to the disposal; or
 - (b) if such weight is not recorded, the permitted gross vehicle weight of the vehicle.
- (3) Without prejudice to his liability for an offence under section 18(1), where any person disposes of waste at a refuse transfer station in contravention of section 4, he shall for each load of waste disposed of pay to the Director charges as if the weight of the load of waste disposed of were—
 - (a) the gross vehicle weight of the vehicle at the in-weighbridge prior to the disposal; or

- (b) if such weight is not recorded, the permitted gross vehicle weight of the vehicle.
- (4) The peak hour rate or the non-peak hour rate prescribed in relation to the refuse transfer station concerned in the Schedule shall apply under subsections (1), (2)(a) and (3)(a) depending on whether the vehicle enters the in-weighbridge of the refuse transfer station during peak hours or non-peak hours.
- (5) The peak hour rate prescribed in the Schedule in relation to the refuse transfer station concerned shall apply under subsections (2)(b) and (3)(b) whether or not the vehicle enters the in-weighbridge of the refuse transfer station during peak hour.

11. Payment of charges and levy of surcharge

- (1) The Director shall from time to time issue to the registered account-holder a notice of demand specifying the amount of the charge payable by the registered account-holder for waste disposed of from his registered vehicles at refuse transfer stations during the period specified in the notice. The amount of the charge shall be payable within 30 days from the date of the notice in such manner as may be specified in the notice.
- (2) Where a charge is not paid as required by subsection (1), a surcharge of 5% of the unpaid charge shall become payable and the total amount of the unpaid charge and surcharge shall be paid within 14 days from the date on which the surcharge becomes payable under this subsection.
- (3) Where the total amount of unpaid charge and surcharge is not paid as required by subsection (2), the Director may suspend the registration of the registered account-holder and of any vehicle registered in his name, and any vehicle so suspended ceases to be a registered vehicle during the period of suspension.
- (4) Upon suspension of the registration of any person as a registered account-holder, the Director shall issue to that person a final notice of demand requiring payment within 14 days of its issue of—
 - (a) all charges and surcharges which have not been paid as required by subsection (2); and
 - (b) all other unpaid charges incurred in relation to registered vehicles of that person before the suspension.
- (5) Where a final notice of demand is settled as required under subsection (4), the Director may, as a condition for restoring the registration of that person, require the registered account-holder to pay such amount as he thinks fit to increase the amount of deposit.
- (6) Where the final notice of demand is not settled as required under subsection (4)—
 - (a) in the case of any charge under subsection (4)(b) which remains unpaid, a surcharge of 5% of such unpaid charge shall become payable; and
 - (b) the Director may revoke the registration of that person as a registered account-holder.

12. Deposit

- (1) A deposit paid under section 6—
 - (a) shall not bear interest;
 - (b) is not transferable; and

- (c) may, without prejudice to the exercise of any other power under this Regulation, be applied by the Director at any time to the payment of any charge or surcharge.
- (2) Subject to subsection (1)(c), the Director shall refund to a person the deposit paid by him if that person ceases to be a registered account-holder—
 - (a) upon revocation under section 11(6) or 13; or
 - (b) at the request of that person.
- (3) The Director may at any time, by notice in writing to a registered account-holder—
 - (a) increase the amount of deposit for his continued registration by such amount as may be specified in the notice; and
 - (b) require the registered account-holder to pay the increase to the Director within such time and in such manner as may be specified in the notice.
- (4) Subsections (1) and (2) apply to any increased amount of deposit paid by any person for his continued registration under this section or for restoring his registration under section 11(5).

13. Revocation of registration

- (1) Without prejudice to section 11, the Director may revoke registration of any person as a registered account-holder if—
 - (a) unacceptable waste has been disposed of from a vehicle registered under the name of that person at a refuse transfer station or any person has attempted to dispose of unacceptable waste from such vehicle at such station;
 - (b) waste has been disposed of at a refuse transfer station from such vehicle in contravention of section 9 or any person has attempted to dispose of waste at such station from such vehicle in contravention of that section;
 - (c) any damage has been caused to any refuse transfer station by such vehicle or any person involved with such vehicle has attempted to cause any damage to such station;
 - (d) where section 11(5) or 12(3) applies, the increased amount of deposit payable for restoring registration of that person or for his continued registration (as the case may be) is not paid as required by that section;
 - (e) a breach of the service conditions has occurred in relation to that person or his registered vehicle;
 - (f) an offence under the Ordinance or this Regulation has been committed by that person or the driver of his registered vehicle or an offence involving the vehicle has been committed under the Ordinance or this Regulation;
 - (g) the continued registration of that person as a registered account-holder is, in the opinion of the Director, prejudicial to the operation of any refuse transfer station;
 - (h) he fails to notify any change in the amount or nature of waste or in other particulars, information or supporting materials as required by section 6(6); or

- (i) no charge has been incurred in relation to that person under this Regulation for a continuous period of 12 months and he does not, within 28 days of a request by the Director in writing to do so, indicate his desire to maintain the registration.
- (2) The Director shall, within 14 days of his decision to do so and by notice in writing, inform the person whose registration is revoked by the Director under section 11 or this section of the fact of, and reason for, the revocation.

14. Director may appoint designated officers

- (1) The Director may in writing appoint any public officer, any person employed by a station operator, any contractor (other than a station operator) or any person employed by such contractor, to be a designated officer for the purposes of this Regulation.
- (2) A designated officer may collect on behalf of the Director any charge, surcharge or deposit payable to the Director under this Regulation and payment of such charge, surcharge or deposit made to a designated officer on behalf of the Director shall be a sufficient discharge of the obligation in respect of such payment.

15. *(Repealed 17 of 2004 s. 15)*

16. Exemption of charge

- (1) No charge shall be payable under this Regulation in respect of waste collected by or on behalf of the Director of Food and Environmental Hygiene or the Director of Leisure and Cultural Services.
- (2) Where any person claims the waste he disposes of or intends to dispose of at a refuse transfer station is, by virtue of subsection (1), not chargeable under this Regulation, the Director may require him to produce such evidence as may be reasonably necessary for establishing that the waste is collected by or on behalf of the Director of Food and Environmental Hygiene or the Director of Leisure and Cultural Services.

(L.N. 183 of 2000)

17. Notice, etc. given by the Director

- (1) Any notice or other document required or authorized to be given under this Regulation may be given by the Director—
 - (a) by delivering it personally to the person to whom it is to be given;
 - (b) by sending it by post to the last known address of the person to whom it is to be given.
- (2) Notwithstanding subsection (1), where a notice is of general application to registered account-holders, the notice may be given by—
 - (a) publishing it in an English language newspaper and a Chinese language newspaper circulating in Hong Kong; and
 - (b) posting it in a conspicuous place at the refuse transfer stations to which the notice relates.

18. Offences and penalties

- (1) Any person who contravenes section 4 commits an offence and is liable to a fine at level 6.
- (2) Any person who knowingly or recklessly provides, for the purpose of section 5 (subsection (3)(b) excepted), incorrect or misleading information or knowingly or recklessly certifies for such purpose as correct anything which is incorrect commits an offence and is liable to a fine of \$200,000 and to imprisonment for 6 months.

SCHEDULE

[ss. 3 & 10]

CHARGES FOR DISPOSAL OF WASTE AT REFUSE TRANSFER STATIONS

Item	Refuse transfer station	Particular	Charge for load of waste	
			Peak hours	Non-peak hours
1.	Island East Transfer Station at 10 Sun Yip Street, Chai Wan, Hong Kong. (Boundary delineated in Drawing number 7A/A/001 Rev. D)	(a) For each load of 1 tonne or less	\$30	\$30
		(b) For each load of more than 1 tonne	\$0.30 per 0.01 tonne, or part of 0.01 tonne	\$0.30 per 0.01 tonne, or part of 0.01 tonne
		(c) For each load of waste in respect of which the Director is of the opinion that— (i) it is impracticable to ascertain the actual weight of the load; or (ii) to ascertain the actual weight of the load will cause public health problems (<i>L.N. 189 of 2013</i>)	\$30	\$30
2.	West Kowloon Transfer Station at GLA-NK564, East of the Container Port Road South, Near Stone Cutters Island,	(a) For each load of 1 tonne or less	\$30	\$30
		(b) For each load of more than 1 tonne	\$0.30 per 0.01 tonne, or part thereof	\$0.30 per 0.01 tonne, or part thereof

Item	Refuse transfer station	Particular	Charge for load of waste	
			Peak hours	Non-peak hours
	West Kowloon (Boundary delineated in Drawing number 90364/TEN/01 Rev. D)	(c) For each load of waste in respect of which the Director is of the opinion that— (i) it is impracticable to ascertain the actual weight of the load; or (ii) to ascertain the actual weight of the load will cause public health problems	\$30	\$30
3.	North Lantau Transfer Station at PLA No. TW 353, Siu Ho Wan, North Lantau, N.T. (Boundaries delineated in Plan number NANTA 80-A)	(a) For each load of 1 tonne or less (b) For each load of more than 1 tonne (c) For each load of waste in respect of which the Director is of the opinion that— (i) it is impracticable to ascertain the actual weight of the load; or (ii) to ascertain the actual weight of the load will cause public health problems (<i>L.N. 251 of 1998</i>)	\$110 \$1.10 per 0.01 tonne or part thereof \$110	\$110 \$1.10 per 0.01 tonne or part thereof \$110
4.	Island West Transfer Station at 88 Victoria Road, Kennedy Town, Western	(a) For each load of 1 tonne or less	\$30	\$30

Item	Refuse transfer station	Particular	Charge for load of waste	
			Peak hours	Non-peak hours
	District, Hong Kong (Boundaries delineated in Drawing number 90833/SP15/04)	(b) For each load of more than 1 tonne	\$0.30 per 0.01 tonne, or part of 0.01 tonne	\$0.30 per 0.01 tonne, or part of 0.01 tonne
		(c) For each load of waste in respect of which the Director is of the opinion that— (i) it is impracticable to ascertain the actual weight of the load; or (ii) to ascertain the actual weight of the load will cause public health problems (<i>L.N. 56 of 2001; L.N. 189 of 2013</i>)	\$30	\$30
5.	Northwest New Territories Transfer Station at Shung Tat Street, Yuen Long, N.T. (Boundaries delineated in Plan number TM 3791-Db)	(a) For each load of 1 tonne or less	\$38	\$38
		(b) For each load of more than 1 tonne	\$0.38 per 0.01 tonne or part thereof	\$0.38 per 0.01 tonne or part thereof
		(c) For each load of waste in respect of which the Director is of the opinion that— (i) it is impracticable to ascertain the actual weight of the load; or	\$38	\$38

Item	Refuse transfer station	Particular	Charge for load of waste	
			Peak hours	Non-peak hours
		(ii) to ascertain the actual weight of the load will cause public health problems (<i>L.N. 119 of 2002</i>)		
6.	Outlying Islands Transfer Facilities—Ma Wan Station at Pak Wan, Ma Wan, N.T., adjoining Sewage Treatment Plant (Boundaries delineated in Plan number TWA 1058-E)	(a) For each load of 1 tonne or less	\$68	\$68
		(b) For each load of more than 1 tonne	\$0.68 per 0.01 tonne or part thereof	\$0.68 per 0.01 tonne or part thereof
		(c) For each load of waste in respect of which the Director is of the opinion that— (i) it is impracticable to ascertain the actual weight of the load; or (ii) to ascertain the actual weight of the load will cause public health problems (<i>L.N. 119 of 2002</i>)	\$68	\$68
			<i>(L.N. 56 of 2001)</i>	
7.	Shatin Transfer Station at 2 On Hing Lane, Sha Tin, N.T. (Boundaries delineated in Drawing number 7286/0001 Rev. C)	(a) For each load of 1 tonne or less	\$30	\$30
		(b) For each load of more than 1 tonne	\$0.30 per 0.01 tonne, or part of 0.01 tonne	\$0.30 per 0.01 tonne, or part of 0.01 tonne
		(c) For each load of waste in respect of which the Director is of the opinion that—	\$30	\$30

Item	Refuse transfer station	Particular	Charge for load of waste	
			Peak hours	Non-peak hours
		(i) it is impracticable to ascertain the actual weight of the load; or		
		(ii) to ascertain the actual weight of the load will cause public health problems (<i>L.N. 189 of 2013</i>)		

SCHEDULE 1

[s. 2 & Sch. 2]

SCHEDULED OFFENCE

Item	Section or Regulation	Description	Fixed Penalty
Public Health and Municipal Services Ordinance (Cap. 132)			
1.	Section 104A(2)	Display of bills or posters without permission	\$1,500
Public Cleansing and Prevention of Nuisances Regulation (Cap. 132 sub. leg. BK)			
2.	Section 4(1)	Depositing of litter or waste in public places	\$1,500
3.	Section 8A(1)	Spitting in public places	\$1,500
4.	Section 13(1)(a)	Fouling of street by dog faeces	\$1,500
Country Parks and Special Areas Regulations (Cap. 208 sub. leg. A)			
5.	Regulation 12(1)(c)	Depositing of litter in country parks and special areas	\$1,500
6.	Regulation 12(1)(e)	Spitting in country parks and special areas	\$1,500
Summary Offences Ordinance (Cap. 228)			
6A.	Section 4A	Obstruction of public places <i>(Added 4 of 2016 s. 4)</i>	\$1,500
7.	Section 4D(1)	Marine littering	\$1,500
Waste Disposal Ordinance (Cap. 354)			
8.	Section 16A(1)	Unlawful depositing of waste	\$1,500
			<i>(Amended L.N. 158 of 2003)</i>

SCHEDULE 2

[ss. 2, 15 & 19]

AUTHORITIES AND PUBLIC OFFICERS

Scheduled Offence*	Authority	Public Officer
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1, 2, 3, 4, 5, 6, 6A, 7, 8	Commissioner of Police	Police Officer <i>(Amended 4 of 2016 s. 5)</i>
4, 5, 6, 7	Director of Agriculture, Fisheries and Conservation	Forestry Officer Field Officer Field Assistant Forest Guard Fisheries Officer Fisheries Supervisor
8	Director of Environmental Protection	Environmental Protection Officer Assistant Environmental Protection Officer Assistant Pollution Control Officer Chief Environmental Protection Inspector Senior Environmental Protection Inspector Environmental Protection Inspector Pollution Control Inspector
1, 2, 3, 4, 6A,7	Director of Food and Environmental Hygiene	Senior Superintendent of Environmental Health Superintendent of Environmental Health Chief Health Inspector Senior Health Inspector Health Inspector I Health Inspector II Senior Overseer Overseer Senior Foreman Foreman Principal Hawker Control Officer Chief Hawker Control Officer Senior Hawker Control Officer Hawker Control Officer Assistant Hawker Control Officer <i>(Amended 4 of 2016 s. 5)</i>
2, 3, 4	Director of Housing	Housing Manager Assistant Housing Manager Housing Officer
2, 3, 4, 7	Director of Leisure and Cultural Services	Amenities Officer I Amenities Officer II Senior Amenities Assistant Amenities Assistant I Amenities Assistant II Amenities Assistant III Chief Librarian Senior Librarian Librarian Assistant Librarian Chief Manager, Cultural Services Senior Manager, Cultural Services Manager, Cultural Services Assistant Manager, Cultural Services Assistant Recreation and Sport Officer II Chief Leisure Services Manager Senior Leisure Services Manager Leisure Services Manager Assistant Leisure Services Manager I Assistant Leisure Services Manager II <i>(Amended L.N. 20 of 2005)</i>

7	Director of Marine	Marine Officer Marine Controller Assistant Marine Controller Senior Assistant Shipping Master Marine Inspector I Marine Inspector II
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* In this column, a scheduled offence is described by reference to the item number set out opposite to the scheduled offence in column 1 of Schedule 1.

Implications of the Proposal

Environmental Implications

Municipal solid waste (MSW) charging aims to create financial incentives to drive behavioural changes in waste generation and thus reducing the overall waste disposal. It is one of the major initiatives set out in *the Hong Kong Blueprint for Sustainable Use of Resources 2013 – 2022*. By linking the level of MSW charges to be paid to the amount of waste disposed of, various sectors of the community including households and businesses, etc. will be incentivised to strengthen their efforts in reducing waste and practise more thorough source separation of recyclables from the waste stream. This will in turn bring about environmental benefits by saving resources and reducing waste generation. More recyclables will be separated from the main waste stream at source, thereby providing a steady and clean source of high-quality inputs for the local recycling industry and fostering a more complete loop of a circular economy in Hong Kong. With reduction in waste disposal, environmental impact associated with the operation of landfills would be reduced and the lifespan of landfills will be extended. The proposed plan to provide additional recurrent funding for promoting recycling and related purposes, including the proposed pilot schemes for free collection services of waste plastics from non-commercial and industrial (C&I) sources and food waste from C&I sources, will also contribute to waste reduction and development of a circular economy of recyclables.

Sustainability Implications

2. Other than the environmental implications stated above, MSW charging will provide financial incentives for our community to reduce and recycle waste, thereby easing the pressure on landfills. As the volume of waste to be transported to the various treatment facilities will also decrease, the proposal will have some positive impact on reducing carbon emissions and energy consumption. It is also likely to bring about new job opportunities especially in the recycling industry, albeit at a limited scale.

Economic Implications

3. Quantity-based MSW charging should help raise public awareness of waste reduction and recycling in various sectors of the

community. After its implementation, all sectors including households and businesses will have to pay the MSW charges depending on the quantity of MSW disposed of. However, the proposed increase in the standard rates for Comprehensive Social Security Assistance (CSSA) Scheme recipients and the corresponding increase in the payment rate of Higher Old Age Living Allowance (Higher OALA) should help mitigate the impact on those with financial needs.

4. On the other hand, the amount of separated and clean recyclables is expected to increase under MSW charging. This in turn will potentially boost the business volume of the recycling industry and may facilitate its development to a certain extent.

5. Regarding the proposed free collection service for waste plastics from non-C&I sources and food waste from all sources, while the proposal is premised on the consideration that the relevant recycling sectors may not be able to function on a commercially viable basis under pure market force, the social benefits of enhanced collection of such types of waste (such as alleviation to pressure on landfill capacity) should be carefully weighed against the significant public resources required for the implementation of the proposed services. From the perspective of the development of the recycling industry, the proposal should help downstream companies in non-C&I waste plastics and food waste processing supply chain through providing them with a consistent flow of raw materials. Yet in the case of waste plastics collection, the potential risk of the proposed free collection services crowding out existing and/or prospective private sector operators engaged in similar services should also be considered, given that it may run counter to other efforts in fostering private sector solutions to tackle the recycling of waste plastics. The two pilot schemes to be conducted will allow us to further evaluate the implications of the proposed services before launching them in full scale.

6. On the whole, the potential lower reliance on landfills as well as a more developed and varied recycling industry arising from the various measures being proposed should be beneficial to Hong Kong's sustainable development.

Family Implications

7. While the implementation of MSW charging will marginally increase the cost of living of households in general, the proposed increase in the standard rates under the CSSA Scheme and the corresponding increase in the payment rate of the Higher OALA by \$10 per month per

person will help mitigate the impact on families receiving the CSSA and Higher OALA.

Financial and Civil Service Implications

8. The introduction of MSW charging is estimated¹ to:
 - (a) necessitate an additional non-enforcement staff cost of about \$46 million per annum for creating around 60 civil service posts mainly in the Environmental Protection Department (EPD). As the administration authority of MSW charging, the EPD will require substantial manpower to undertake a whole range of new and heavy responsibilities. These include developing the charging infrastructure and administering the MSW charging arrangements, i.e. the manufacturing, inventory and distribution system for designated garbage bags/labels including the supply of locally recovered waste plastics and administration of 4 000 plus authorised sales outlets, registration and billing system for charging private waste collectors by way of “gate-fee” at the refuse transfer stations (RTSs) and landfills, and taking forward a major publicity and public education campaign to prepare the community for the introduction of MSW charging. With the additional manpower to be deployed by phases for undertaking the preparatory work for the MSW charging scheme, the staff requirements in support of enforcement and inspection duties, including the frontline enforcement staff and necessary administrative staff, will be reviewed and considered based on a risk-based approach at a later stage subject to the public response to the intensive public education, publicity and engagement work on waste reduction and recycling, outcomes of the enhanced recycling and related support as well as the Food and Environmental Hygiene Department’s efforts to deal with littering problems and fly-tipping problems ahead of the implementation of MSW charging;
 - (b) necessitate separately an additional non-enforcement recurrent expenditure of about \$670 million per annum, mainly for the production and distribution of designated

¹ The financial implications are based on latest estimates and calculated at current price level.

garbage bags/labels, increase in allowance under the CSSA and Higher OALA², modifications of recycling bins and litter containers in public places, modifications and maintenance of waste reception facilities at landfills and RTSs, operation of the Registration and Accounting System, and launching of publicity and public education on MSW charging and new recycling initiatives;

- (c) necessitate a capital and non-recurrent expenditure of about \$150 million for the upgrading of refuse collection points and the development of a registration and billing system for implementation of MSW charging at RTSs and landfills;
- (d) necessitate an additional expenditure of about \$300-400 million in the financial year (FY) 2019-20, which will be further increased to no less than \$800 to \$1,000 million in the FY when the MSW charging is to be implemented to strengthen our work on waste reduction and recycling, including the setting up of outreaching teams to provide on-site assistance to the community, thereby putting waste reduction and recycling and MSW charging into practice (entailing around \$130 million in FY 2019-20); provision of free collection service in respect of waste plastics from non-C&I sources (entailing around \$70 million in FY 2019-20) and food waste from all sources (entailing around \$60 million for collecting food waste from C&I sectors in FY 2019-20) 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; regularisation of funding support for Community Recycling Centres; a pilot scheme to assess the effectiveness of applying reverse vending machines in recycling plastics beverage containers; and other waste reduction and recycling initiatives in consultation with relevant stakeholders; and
- (e) on the revenue side, our latest estimate is that MSW charging revenue in the first year of implementation would range from \$812 million to \$1,206 million, depending on the compliance rates (after excluding the existing RTS charge).

² Regarding the proposal to increase the standard rate of all CSSA recipients by \$10 per person per month, the estimated annual financial implications will be around \$39 million. As regards the assistance under the Higher OALA, the estimated additional annual expenditure will be around \$52 million.