

Bills Committee for Waste Disposal (Amendment) (No.2) Bill 2003

Construction Waste Disposal Charging Scheme

Purpose

This paper briefs Members on the Waste Disposal (Amendment) (No. 2) Bill 2003 (the Bill). The main purpose of the Bill is to provide a statutory basis for the implementation of the construction waste disposal charging scheme, and to strengthen control against illegal disposal of waste.

Background

2. In 2003, about 6.5 million tonnes of waste were disposed of in our three landfills¹. About 53% of them are municipal solid waste (i.e. domestic, commercial and industrial waste), 38% are construction waste² and 9% are other special waste like sludge and animal carcasses. The three landfills occupy 270 hectares of land, cost \$6 billion to build and over \$400 million a year to operate. When planned in the 1980s, they were expected to serve our need for waste disposal till 2020. However, as the waste volume continues to grow, the landfills are filling up much faster than expected, and are projected to last only 7 to 11 years. They may be filled up much earlier, probably in 4 to 6 years, if we fail to prevent construction waste from being disposed of there.

¹ The three landfills are located at Tseung Kwan O, Tuen Mun (Nim Wan) and North District (Ta Kwu Ling).

² Construction waste is a mixture of inert waste (also called public fill) and non-inert organic waste arising from construction, excavation, renovation and demolition works. The useful inert public fill comprising rocks, concrete, asphalt, rubbles, bricks, stones and earth are suitable for reuse in reclamation works. Some of the hard materials can also be recycled as aggregates for use in construction works. The non-inert waste comprising bamboo, plastic, timber and packaging waste are often mixed and contaminated. If uncontaminated, some of the materials can be recycled, but if they are contaminated, they will not be suitable for reuse or recycling, and have to be disposed of at landfills.

3. Disposal of waste at landfills has always been free of charge. This will encourage indiscriminate disposal of waste at landfills. Also, the use of public money to cover the expenses of landfill operation is against the Polluter Pays Principle. With the implementation of the construction waste disposal charging scheme, the responsibility for disposal of waste will be put back on the waste producers. This is justifiable and in line with the Polluter Pays Principle. The charging scheme will provide an economic incentive for waste producers to reduce waste and to carry out sorting to facilitate reuse/recycling of waste, thereby helping to slow down the depletion of limited landfill capacity.

4. In 1995, we proposed to implement a charging scheme for the disposal of construction and commercial/industrial wastes. The legislation was enacted but was not implemented due to strong objection from waste haulers who blockaded landfills for two days.

The Revised Construction Waste Disposal Charging Scheme

5. After many rounds of discussions with the relevant trades, particularly waste haulers and construction contractors³, we have developed a revised construction waste disposal charging scheme incorporating various features to address their concerns as far as practicable. The key features of the revised scheme are as follows :

- (a) to charge construction waste disposed of at landfills, sorting facilities and public fill reception facilities⁴;
- (b) to set the disposal charge at \$125 per tonne at landfills, around \$100 per tonne at sorting facilities⁵ and \$27 per tonne at public fill reception facilities. The proposed charges represent full recovery of the capital and recurrent costs of the facilities;

³ We have had some 60 meetings with the affected trades on the revised scheme between 2000 and 2002.

⁴ Under the revised charging scheme, apart from imposing charges on waste disposal at landfills, sorting facilities and public fill reception facilities, landfill charge will also be imposed on the disposal of construction waste at the refuse transfer stations on the outlying islands. Other refuse transfer stations do not accept construction waste.

⁵ If the sorting facilities are to be run as private facilities, the private operators would set the sorting charge.

- (c) to establish a direct payment system requiring major waste producers (i.e. any principal contractor who undertakes a construction work valued \$1 million or above) to open accounts and pay waste disposal charges direct to the Government. These major waste producers are mainly construction contractors who generate about 70 - 80% of construction waste;
- (d) to exempt all construction contracts that are awarded before the commencement of the charging scheme.

6. For the remaining 20-30% of construction waste mostly arising from renovation works, we have proposed to levy the charges through waste haulers that deliver the wastes to the facilities. The charges will be collected on a monthly basis with a credit period of 30 days. Collection of the charges from waste haulers will be suspended if they produce evidence that they are unable to collect the same amount from the waste producers. However, noting the waste haulers' grave concerns about possible cashflow and bad debt problems, we are discussing with the relevant associations alternative options, with a view to reaching consensus on the charging arrangements.

7. The current proposed scheme focuses on construction waste as it is voluminous⁶ and poses the greatest threat to the lifespan of landfills. Construction waste is a mixture of inert public fill and non-inert organic waste, and a large proportion of the inert public fill can be reused/recycled. Hence, an important means to reduce construction waste at landfills is to separate the inert portion from the non-inert portion, such that the inert public fill could be reused/recycled while the non-inert waste only would be disposed of at landfills.

⁶ Construction works generate 16 million tonnes of construction waste each year. We are reusing/recycling some 80% of these waste, but the remaining 3 million tonnes have to be disposed of at landfills.

8. Sorting of waste at source is not widely practised in Hong Kong because most construction/renovation sites have space constraints. Also, there is no economic incentive for construction firms to carry out sorting. With the implementation of the charging scheme, there would be a demand for sorting facilities, particularly from contractors working on small construction sites, so as to reduce the landfill charge payable. We plan to set up two sorting facilities - one in Tuen Mun in close proximity to the landfill at Nim Wan, and another near the landfill in Tseung Kwan O. The two facilities could together handle about 2,500 tonnes of mixed construction waste each day.

9. Moreover, to divert inert public fill away from landfills, and to provide outlets for inert public fill arising from sorting facilities, there will be a number of public fill reception facilities. The public fill reception facilities include most of the approved reclamation projects⁷ and the temporary fill banks⁸.

10. As there is currently no provision of sorting facilities, no sorting charge is in place. For public fill reception facilities, although they have been in place for some time, no public fill charge has ever been levied. In line with the Polluter Pays Principle, we propose to introduce charging for the disposal of construction waste at the landfills, sorting facilities and public fill reception facilities.

11. The three types of construction waste disposal facilities (i.e. landfills, sorting facilities and public fill reception facilities) would receive construction waste with different content. Briefly, landfills would receive mixed construction waste with little (not more than 50%) inert content; sorting facilities would receive and sort mixed waste with higher (over 50%) inert content; and public fill reception facilities would accept pure inert fill.

⁷ Except special projects with time or other constraints (e.g. Penny's Bay Reclamation Stage 1), all reclamation projects are using as much public fill as possible to meet their fill requirements.

⁸ Because of the decreasing number and scale of reclamation projects, we have set up temporary fill banks at Tseung Kwan O and Tuen Mun to stockpile inert public fill for future use when new reclamation projects are available.

The Bill and Related Regulations

12. The Bill will define construction waste. Upon the enactment of the Bill, details of the charging scheme will be set out in the new Waste Disposal (Charges for Waste Disposal) Regulation, and the related powers to implement the charging scheme in Government-owned facilities will be provided in the amended Waste Disposal (Designated Waste Disposal Facility) Regulation.

Strengthening of Control Against Illegal Disposal of Waste

13. The Ordinance has already provided for sanctions against illegal disposal of waste⁹. However, the introduction of the charging scheme may aggravate the problem of illegal disposal of waste. In order to deter people from avoiding the charges, we consider it necessary to strengthen legal provisions against illegal disposal of waste.

14. The measures proposed under the Bill to strengthen control against illegal disposal of waste include –

- (a) To empower the court to order the person convicted of illegal disposal of waste to remove the waste on Government land. In cases where the removal work has already been carried out by Government, the court could order the convicted person to pay all or part of the removal cost incurred by Government as appropriate;
- (b) To empower the Director of Environmental Protection (DEP) to enter without warrant any places, other than domestic premises and dwelling place on private land, to remove the waste in cases where there is an imminent risk of serious environmental impact and immediate remedial actions are required. DEP shall only enter domestic premises and dwelling place on private land when a warrant is obtained. DEP would be

⁹ Under section 18 of the Ordinance, a person who commits an offence is liable to a fine of \$200,000 and imprisonment for 6 months for the first offence; and to a fine of \$500,000 and imprisonment for 2 years for a second or subsequent offence.

entitled to apply to the court to recover from the convicted person the cost of removing the waste; and

- (c) To revise the existing offence of unlawful depositing of waste to make available the exception of having lawful authority or excuse or the permission of the owner or occupier of the land regardless of where the waste is deposited; to further stipulate that the driver of a vehicle (not being a public transport carrier) from which waste is deposited as well as the employer of that driver are to be regarded as the persons causing waste to be deposited; and to provide for the statutory defences of reasonable precautions and due diligence to a defendant charged with the offence of illegal disposal of waste.

Consultation with the Affected Trades

15. Between April 2000 and May 2002, we had around 60 meetings with the affected trades on the charging scheme. From May to November 2003, we consulted all the relevant advisory committees and stakeholders on the proposed charges and the detailed arrangements of the scheme¹¹. All the organizations consulted support the charging scheme in principle. However, the waste haulers object to the proposed arrangement of levying through them the disposal charges for construction waste generated by small waste producers (who generate 20-30% of construction waste).

16. Our current proposed measures (e.g. establishment of a direct payment system requiring major waste producers to pay charges to the Government direct; billing waste haulers on a monthly basis with a 30-day credit period to allow them more time to collect the charges from waste producers; waiving the requirement for security deposit; and suspending the collection of charges if waste haulers can produce evidence that they are unable to collect the same amount from the waste producers) are

¹¹ Between May and November 2003, we have had 11 meetings with stakeholders and advisory bodies and received 12 written submissions.

¹² Between December 2003 and April 2004, we have had 5 meetings with the waste haulers' associations.

intended to address the waste haulers' concerns about possible cashflow and bad debt problems. Nevertheless, waster haulers' objection to the proposed charging arrangements remains.

17. We consulted the Legislative Council Environmental Affairs Panel (the Panel) in November 2003 on the Bill. The Panel supported our proposal, but had requested the Administration to further consult the trades on the charging arrangements. We have been maintaining dialogue with the waste haulers' associations since December 2003¹² to discuss alternative feasible options, with a view to reaching consensus on the charging arrangements. We will later provide Members with the details of our proposed charging mechanism, the concerns of the waste haulers and our responses to their concerns.

Conclusion

18. Members are invited to note the above information.

Environment, Transport and Works Bureau
April 2004