

LC: Waste Disposal (Charges for Disposal of Construction Waste)
Regulation

Following is a translation of the speech by the Secretary for the Environment, Transport and Works, Dr Sarah Liao, on moving amendments to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation at the Legislative Council meeting today (January 5):

Madam President,

I hereby move the amendments to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation ("the Charging Regulation") and the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 ("the DWDF Regulation") as set out in the Agenda.

The Waste Disposal (Amendment) Ordinance 2004, which was passed by the Legislative Council (LegCo) on July 2, 2004 with amendments, is the enabling legislation for the Charging Regulation and the DWDF Regulation and provides the statutory basis for the introduction of the construction waste disposal charging scheme. The Charging Regulation and the DWDF Regulation were tabled at the LegCo on November 3, 2004 and subsequently scrutinised by a Subcommittee set up for this purpose. The Subcommittee has now completed its scrutiny of the Regulations. Just now, Hon. Choy So-yuk has reported the deliberation of the Subcommittee. I would like to take this opportunity to brief Members on the amendments to the regulations proposed by the Administration in response to the comments made by the Subcommittee.

The Charging Regulation and the DWDF Regulation set out the details of the construction waste disposal charging scheme, including the charges for the disposal of construction waste at landfills, sorting facilities and public fill reception facilities and their calculation. The Charging Regulation sets the disposal charges at \$125 per tonne at landfills, \$100 per tonne at sorting facilities and \$27 per tonne at public fill reception facilities in order to fully recover the capital and recurrent costs of the facilities according to the polluter pays principle.

To address the concern of waste haulers over possible cashflow and bad debt problems, we have decided to remove on-site payment and require all charges to be paid through billing

accounts. This arrangement is supported by waste haulers and the Subcommittee.

Under the proposed charging scheme, a main contractor who undertakes construction work with a value of \$1 million or above will be required to make an application to the Director of Environmental Protection (DEP) within 21 days after being awarded the contract to establish a billing account. Upon the establishment of the billing account, the main contractor will be required to use the account to pay any disposal charges payable in respect of the construction waste generated from construction work undertaken under that contract. In view of the comments of the Subcommittee, we now propose to amend the Charging Regulation by prescribing in clearer terms that "contract" means "a contract in writing or a contract supported by sufficient evidence in writing" and that a billing account established solely for a construction contract with a value of \$1 million or above cannot be used to settle charges arising from other contracts with a value of less than \$1 million each. In addition, to lower the administration costs of managing multiple billing accounts by small and medium contractors, under the Regulation, a contractor may establish one billing account to cover several contracts with a value of less than \$1 million each.

According to our initial proposal, an account-holder will be required to pay to the DEP all charges payable within 30 days from the day of the notice of demand issued by the DEP. In response to the request of the trades and the Subcommittee, we propose to amend the Charging Regulation to extend the payment period from 30 to 45 days so as to further relieve the cashflow pressure on the trades. If an account-holder fails to make payment as required within 45 days, he will be liable to pay a 5% surcharge. If the account-holder fails to pay the unpaid charges and the surcharge within 14 days, the DEP may suspend the account in question. Upon the suspension of the account, the DEP is required to issue a final notice to the account-holder. If the account-holder fails to pay the unpaid charges and the surcharge within 14 days of the final notice, the DEP may revoke the account.

The Charging Regulation provides that a person may apply for the establishment of an exemption account for a construction contract awarded before the commencement of the Regulation. In response to the request of the trades and the Subcommittee, we propose to amend the Regulation to the effect that in addition to the above situation, a contractor may apply for the establishment of an exemption account for a contract if the closing date, if any,

for submitting a tender for that contract is earlier than the commencement of the Regulation.

When delivering a load of waste to a designated waste disposal facility, the waste hauler appointed by the account-holder will be required to produce a valid "chit". Similar to the practice of public utilities, the account-holder will be required to pay a deposit when he applies to the DEP for such chits and the deposit will vary according to the amount of usage. To minimise the financial impact on the trade, we have proposed and the trade has agreed that a two-tier system be adopted. Under this two-tier system, the deposit for the disposal of construction waste generated from a contract with a value of \$1 million or above will be charged at a minimum of \$15,000 for 200 chits. If additional chits are required, additional deposit on a pro-rata basis will have to be paid. For a contract with a value of less than \$1 million, a deposit of \$300 for each chit will be required. This amount is determined on the most lenient assumption that all vehicle loads contain inert materials to be disposed of at public fill reception facilities charging at \$27 per tonne.

In addition, we also propose to amend the Charging Regulation to the effect that the DEP may, on his own initiative or at an account-holder's request, refund the deposit or part of it if the DEP is satisfied that the deposit or that part is no longer required. In making such a decision, the DEP shall have regard to the factors that he considers relevant, including the amount of construction waste that the account-holder proposes to dispose of.

The Charging Regulation specifies the type of construction waste that may be accepted at the various designated waste disposal facilities. If the construction waste delivered by a waste hauler to a designated waste disposal facility is not of the type that may be accepted at that facility, that waste hauler will be turned away. Under these circumstances, to facilitate the waste hauler's delivery of the waste to the appropriate facility, the staff at the facility will give the waste hauler an entry refusal note, which will specify the reason for refusal and the appropriate designated waste disposal facility for the waste to be delivered to. When the waste hauler delivers the waste to the appropriate waste disposal facility, he will not be turned away again.

For the purpose of enforcing the requirements on inert construction waste content set out in Column 3 of Schedule 2 of the DWDF Regulation, the DEP will determine the content of waste using a reference table based on the net weights and permitted

gross vehicle weights of different types of vehicles. The Subcommittee was of the opinion that the Regulation should authorise the DEP to determine the inert construction waste content according to the criteria set out in the reference table in order to avoid disputes in the enforcement process although the reference table is not intended to be part of the subsidiary legislation. We supported the Subcommittee's proposal and, therefore, propose to amend the DWDF Regulation to require the DEP to give notice in the Gazette of the criteria adopted for the determination of the inert content of waste. We also undertake to consult the trades through the Tripartite Working Group (TWG) before making any changes to the reference table in future. The TWG, comprising waste haulers, developers/contractors and government representatives, will continue to operate after the implementation of the charging scheme in order to maintain close liaison and co-operation between the Administration and the relevant trades, and review the operational procedures and monitoring mechanism.

According to our initial proposal, if a main contractor who undertakes construction work under a contract with a value of \$1 million or above fails to apply to the DEP for the establishment of a billing account within 14 days after being awarded the contract, he will commit an offence and, in the case of a continuing offence, will be liable to a daily fine of \$5,000. As the Bills Committee considered the proposed daily fine too high, we propose that the daily fine level be reduced from \$5,000 to \$1,000. In response to the request of the trades, we also propose to extend the period for establishing a billing account from 14 to 21 days. When scrutinising the Regulations, the Subcommittee was concerned that lowering the penalty might make the provision less effective as a deterrent and suggested that a review be conducted six months after the implementation of the charging scheme. We accept the proposal of the Subcommittee and will review the charging scheme six months after its implementation and at regular intervals afterwards. The scope of review will include the deterring effect of the penalty, the deposit levels and the effectiveness of the reference table. We will submit detailed review reports to the LegCo Secretariat in due course.

Subject to the passage of the proposed amendments, we will widely publicise the Regulations through publicity and education activities and inform the public and the trades of the arrangements under the construction waste charging scheme. We will also educate waste producers, including renovation contractors, on their responsibility for minimising waste and establishing billing accounts. We will also conduct a dry run of

the charging mechanism for a period of time with the trades before formally launching the charging scheme in the summer of 2005 so that those involved can fully familiarise themselves with the procedures.

The Resolutions proposed by the Administration also include other technical amendments.

Madam President, I hereby move the proposed amendments, which have been endorsed by the Subcommittee. I would like to extend my heartfelt gratitude to the Honourable CHOY So-yuk, Chairman of the Subcommittee, and all members of the Subcommittee for giving us their invaluable views when scrutinising the Regulations.

With these remarks, I urge Members to support the proposed amendments. Firstly, I move the amendments to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation. Thank you, Madam President.

Ends/Wednesday, January 5, 2005
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