

Following is a summary of points made by the Secretary for the Environment, Transport and Works, Dr Sarah Liao, on the resumption of the second reading debate on the Waste Disposal (Amendment) (No.2) Bill 2003 at the Legislative Council meeting today (July 2):

Madam President,

The main purpose of the Waste Disposal (Amendment) (No.2) Bill 2003 is to provide a statutory basis for the implementation of the construction waste disposal charging scheme.

We are now facing a serious waste problem. The quantity of construction and demolition (C&D) materials generated from local construction works has been on the rise. Despite that we have been implementing various measures to promote reduction and reuse of C&D materials to the construction industry, there were still 19 million tonnes of C&D materials generated in 2003, of which 2.5 million tonnes were disposed of at landfills. As the three existing landfills are filling up much faster than expected, if we fail to introduce measures in time to reduce the pressure on landfills from the disposal of construction waste, the landfills would be full in 4 to 6 years.

The construction waste disposal charging scheme is an essential component of our waste management strategy. The proposed charging scheme, which is in line with the polluter-pays principle, aims to provide an economic incentive for waste producers to reduce waste and to carry out sorting to facilitate the reuse and recycling of waste.

I am most grateful to Dr the Hon Law Chi-kwong, Chairman of the Bills Committee, and other Members for rendering their support for the early introduction of the construction waste disposal charging scheme. When scrutinising the Bill, the Bills Committee focused on how to effectively implement the charging scheme, rather than whether the scheme should be implemented at all. I would like to thank the Bills Committee for their invaluable input. I would also like to take this opportunity to thank the trade for supporting the charging scheme. I understand that the implementation of the charging scheme will have an impact on the trade. We had therefore been in close liaison with the trade in drawing up the details of the charging scheme and had revised some of the key features of the scheme to address the trade's concerns.

The Bill is an enabling legislation. Upon the enactment of the Bill, we will introduce into the Legislative Council two new regulations, namely, the Waste Disposal (Charges for Waste Disposal) Regulation and Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation to set out the details of the charging scheme. The draft regulations have already been deliberated by the Bills Committee. Members' comments will be taken into account when we finalise the two regulations.

The key features of the Construction Waste Disposal Charging Scheme include:

* firstly, to impose charges on the disposal of construction waste at landfills, sorting facilities and public fill reception facilities, and to set the disposal charge at \$125 per tonne at landfills, \$100 per tonne at sorting facilities and \$27 per tonne at public fill reception facilities. The proposed charges represent full cost recovery of the waste facilities;

* secondly, to establish a direct settlement system requiring any major contractor who undertakes construction works valued \$1 million or above to open a billing account with and pay waste disposal charges to the Government directly. These major waste producers generate about 70 - 80% of construction waste;

* thirdly, for the remaining construction waste arising mostly from renovation works, to remove on-site payment arrangement and require all charges to be paid through billing accounts; and

* fourthly, to exempt all construction contracts that are awarded before the commencement of the charging scheme.

As early as 1995, we proposed a charging scheme for the disposal of construction and commercial/industrial wastes; but it had not been implemented because a consensus could not be reached with the waste haulers on the charging arrangements. We have since been exploring various options with the waste haulers' associations, with a view to identifying an arrangement that can address their concerns over possible cashflow and bad debt problems.

Having carefully considered the pros and cons of different options, we have further revised the charging arrangements by removing on-site payment and requiring all charges to be paid through billing accounts. Under this arrangement, charges on waste arising from minor works will not be levied through waste haulers. Instead, all charges will need to be paid through billing accounts. I am very pleased that this revised charging arrangement has been accepted and supported by the waste haulers.

The Bills Committee had discussed whether all construction and renovation contractors should be required to open billing accounts so as to avoid shifting of the responsibility for paying charges to the waste haulers. However, as there may not be any contracts as such for small-scale works and most of them do not require the approval of the Government before commencement, it will be highly difficult to identify the main contractors, thus making enforcement not practicable. Noting the situation, the Bills Committee did not insist on making it a mandatory requirement for all contractors to open billing accounts. As for the suggestion that all renovation contractors should be required to open billing accounts, the major obstacle is the absence of a registration scheme for the trade, which makes it difficult to define who is a renovation contractor. In addition to the practical and enforcement difficulties, we agree with some Members that the suggestion should be thoroughly discussed with the trade before it can be further explored. The Bills Committee has no objection to this. We will review the operation of the charging scheme after its implementation and consider whether further revision to the charging arrangements is necessary.

We propose to require any major contractor who undertakes construction works valued \$1 million or above to open a billing account. Failure to apply to the Director of Environmental Protection for a billing account within 14 days after award of the contract will be an offence. Some Members have proposed to lower the threshold from \$1 million to \$0.5 million so that more contracts will be covered. Since construction works in the range of \$0.5 - 1 million are usually of smaller scale, lowering the threshold will cause undue inconvenience to small and medium firms since they will have to bear legal liability even for simple works. Moreover, their administrative costs and workload will also increase. On balance, we consider the \$1 million threshold

appropriate. Nonetheless, in order to facilitate the major contractors in complying with the requirement, we agree to extend the period from 14 to 21 days as suggested by Members.

Subject to the passage of the Bill and the relevant Regulations, we will launch a series of publicity and education programmes to widely publicise the implementation of the construction waste disposal charging scheme. Apart from informing the trades and the public of the arrangements under the charging scheme, we will educate the waste producers, including renovation contractors, that they have the responsibility to open billing accounts and pay disposal charges.

We understand that the operational arrangements of the charging scheme must tie in with the practice of the trade in order not to upset its operation. We are setting up a tripartite working group with representatives from the construction industry, waste haulers and relevant government departments to discuss the operational details of the charging scheme. Before the actual implementation of the charging scheme, we will conduct a trial run to try out the operational procedures and, if necessary, fine-tune the procedures. After the implementation of the charging scheme, we will review the operational arrangements and the monitoring mechanism regularly in the light of the feedback from the trade.

Another purpose of the Bill is to strengthen the control against illegal disposal of waste. The Waste Disposal Ordinance has already provided for sanctions against illegal disposal of waste. 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 the legal provisions against illegal disposal of waste, including:

- * firstly, empowering 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;

- * secondly, empowering the Director of Environmental Protection to enter without warrant any places, other than domestic premises and dwelling place on private land, to remove the waste deposited illegally in cases where there is an imminent risk of serious environmental impact and immediate remedial actions are required. The Director shall only enter domestic premises and dwelling place on private land when a warrant is obtained and would be entitled to apply to the court to recover from the convicted person the cost of removing the waste; and

- * thirdly, revising the existing offence of unlawful depositing of waste to make available the defence of having lawful authority or excuse or the permission of the owner or occupier of the land on which the waste is deposited; stipulating that the driver of a vehicle 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 providing for the statutory defence which stipulates that if the defendant can prove that he had no reason to believe that an offence would be committed, it should be acceptable to regard the defendant as innocent.

I understand that the recent case of land filling activity on a piece of private agricultural land in She Shan Tsuen, Tai Po, carried out with the consent of the landowner, has given rise to concerns that the proposed construction waste disposal charging scheme may result in an increase of such activities. The Housing, Planning and Lands Bureau is considering ways to tackle this issue from the land use and planning perspectives.

From the environmental protection perspective, we have consulted the Bills Committee on a possible option under which all major land filling activities for any purposes will be subject to the control of the Environmental Impact Assessment Ordinance. While the option will not forbid land filling activities from taking place on private land, it will serve to regulate such activities to ensure that they will not give rise to unacceptable environmental impacts. We recognise that the public is also concerned that private land filling activities may adversely affect the rural environment. However, due to other considerations, such as the rights of landowners, we consider that there is no valid reason to forbid landowners from carrying out such activities on their private land as long as the relevant laws are not contravened. On balance, we consider that regulation rather than prohibition will be an appropriate way to address the issue. We will further examine the details of this option in the light of the views of the Bills Committee, and complete the necessary legislative amendment procedures as soon as practicable to tie in with the enactment of the Bill.

I share the concern of Members, green groups and the public that a private developer may demolish its new buildings, which will generate a huge quantity of construction waste unnecessarily and put an extra burden on the landfills. As far as I understand, the developer concerned has not yet decided whether to demolish the buildings. I would like to take this opportunity to call on the developer to meet its corporate social responsibilities by adopting other measures to avoid the need to demolish the new buildings.

After the implementation of the charging scheme, the differential charges for different facilities, with landfill charge the highest and public fill charge the lowest, will provide an economic disincentive for developers or contractors to demolish buildings indiscriminately. In addition, we are consulting the relevant bureaux and departments on measures to prevent indiscriminate demolition.

Some Members have suggested that the Bill should include punitive measures targeting at indiscriminate demolition of buildings. We undertake to monitor closely the situation to see if there is any indiscriminate demolition of buildings, and when reviewing the implementation of the charging scheme, consider the need for imposing punitive construction waste disposal charges on indiscriminate demolition of buildings.

The Government has been following the polluter-pays principle and firmly believes that through the adoption of effective financial tools, we can help promote environmental protection and sustainable development without hindering the free market, as well as providing business opportunities for the recycling trade. The introduction of the construction waste disposal charging scheme is an important step. I appeal to Members' support for the Bill and the amendments to the Bill which I will propose at the Committee Stage. Subject to the passage of the Bill, we will submit the new regulations to this Council as early as possible in the coming legislative session, with a view to implementing the charging scheme in 2005.

Madam President, I propose that the Bill be read the second time. Thank you.

Ends/Friday, July 2, 2004