

CHAPTER 2

**Development Bureau
Environment Bureau
Transport and Housing Bureau**

Management of roadside skips

**Audit Commission
Hong Kong
30 October 2013**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 61 of the Director of Audit contains 10 Chapters which are available on our website at <http://www.aud.gov.hk>

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MANAGEMENT OF ROADSIDE SKIPS

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MANAGEMENT OF ROADSIDE SKIPS

Executive Summary

1. A skip is an open-top container of rectangular shape mostly made of iron. Very often, it is placed at roadside near a construction site or a building under renovation for temporary storage of construction and renovation waste removed from the site or building. Using skips for disposal of construction and renovation waste is an effective means to reduce environmental nuisance and facilitates the construction and fitting-out trades in disposing of such waste in a tidy and orderly manner. However, owing to the lack of a Government monitoring system, roadside skips very often unlawfully occupy public roads, cause obstruction to traffic, and at times pose environmental, hygiene and safety risks to road users. In recent years, there has been a significant increase in the number of public complaints over roadside skips. From November 2009 to June 2013, the Hong Kong Police Force (HKPF) recorded 10 traffic accidents involving skips, in which a total of 15 persons were injured. The Audit Commission (Audit) has recently conducted a review of the Administration's efforts in managing roadside skips (paras. 1.2, 1.5, 1.10 and 1.11).

Problems caused by roadside skips

2. *Voluntary compliance with skip guidelines.* In December 2007 and January 2008, the Environmental Protection Department (EPD) and the Transport Department (TD) issued two guidelines (EPD Guidelines and TD Guidelines) for voluntary compliance by skip operators. With a view to reducing problems caused by skip operations, EPD Guidelines focus on measures to reduce environmental problems while TD Guidelines cover measures to reduce public safety risks and obstruction to pedestrian and vehicular traffic. However, the two departments have not conducted any evaluation of the effectiveness of the two Guidelines (paras. 2.2 to 2.4).

Executive Summary

3. ***Lack of Government statistics on roadside skips.*** The Government has not set up any system to monitor the placing of roadside skips, and no Government survey has been conducted to ascertain the magnitude of the problem. As a result, the Government does not have any statistics on the number of skip operators, the number of skips in operation and the number of skips placed at roadside every day (para. 2.5).

4. ***Audit road survey and inspections identified many skips.*** From August 2012 to July 2013, with a view to ascertaining the magnitude of the problem caused by roadside skips, Audit conducted a one-year road survey and, additionally, in three Districts conducted one-day inspections and 38-day inspections. Audit survey and inspections identified a total of 470 roadside skips and a number of irregularities (paras. 2.6 to 2.9, 2.12 and 2.13).

5. ***Skip problems revealed in Audit road survey and inspections.*** Audit road survey and inspections revealed that none of the 470 skips had fully complied with EPD and TD Guidelines. In particular, 100% of the skips did not have clear markings indicating that the disposal of domestic, flammable, hazardous and chemical waste was not permitted, 99% were not covered with clean waterproof canvas, 98% were not provided with yellow flashing lights during the hours of darkness, and 39% were placed at “no-stopping” restricted zones. Audit also noted that two locations had continuously been occupied by one to nine skips throughout the 38-day period (paras. 2.12 to 2.18).

6. The issues caused by roadside skips are multi-dimensional, including unlawful occupation of government land, nuisance and obstruction caused to neighbourhood and pedestrians, obstruction and safety risks posed to road users, damage to roads, and environmental and public hygiene problems (para. 4.14).

Government actions on regulating roadside skips

7. In 2004, the Lands Department (Lands D) and the HKPF agreed to take relevant enforcement actions on roadside skips under the Land (Miscellaneous Provisions) Ordinance (Cap. 28 — the Cap. 28 Ordinance) and the Summary Offences Ordinance (Cap. 228) respectively (para. 3.3).

Executive Summary

8. ***The Cap. 28 Ordinance not effective in regulating skip operations.*** Between January 2008 and June 2013 (66 months), the Lands D had posted 4,125 notices under the Cap. 28 Ordinance on roadside skips, removed 29 skips (on average one skip in two months), and instituted prosecution action related to one skip. Audit notes that Lands D staff sometimes took a long time before conducting site inspections in response to public complaints on roadside skips. Audit has also found that the Cap. 28 Ordinance is not an effective tool for regulating skip operations because, under the Ordinance, the Lands D needs to provide a 24-hour notice before removal action can be taken on a skip. Therefore, the Government needs to establish a better system to regulate and facilitate skip operations (paras. 3.7, 3.8 and 3.16).

9. ***HKPF actions might not have reflected magnitude of the skip problem.*** From January 2008 to June 2013 (66 months), the HKPF had taken actions to remove 32 skips (on average one skip in two months) and taken prosecution actions in 25 cases. Audit notes that the HKPF would only take removal and prosecution actions on skips causing serious obstruction or imminent danger to the public on roads and pavements. Based on Audit's road survey and inspection results (see paras. 4 and 5 above), the removal of one skip in two months might not have reflected the magnitude of the skip problem (paras. 3.11 and 3.18).

Government system for facilitating skip operations

10. ***Lack of a regulatory system for regulating skip operations.*** As revealed in discussions about roadside skips in past years, relevant trade associations and Government departments were generally in support of introducing a permit system to regulate skip operations. Audit researches also reveal that some overseas authorities have implemented a permit system for the purpose. However, such a regulatory system has not been introduced in Hong Kong. Based on Audit's findings, the Government needs to assess the magnitude of the skip problem and take necessary remedial actions (paras. 4.9, 4.12 and 4.15)

Executive Summary

Audit recommendations

11. **Audit recommendations are provided in PART 5 of this Audit Report. This Summary only highlights the key recommendations. Audit has *recommended* that the Secretary for Development, the Secretary for the Environment and the Secretary for Transport and Housing should jointly:**

- (a) conduct a survey to ascertain the magnitude of the skip problem (para. 5.6(a));**
- (b) conduct a review of the effectiveness of the existing enforcement actions on roadside skips taken by the Lands D and the HKPF (para. 5.6(b));**
- (c) formulate strategies and action plans for regulating and facilitating skip operations (para. 5.6(c)(i));**
- (d) assign a Government department to take up the responsibility for regulating and facilitating skip operations (para. 5.6(c)(ii)); and**
- (e) conduct a review to reassess whether the current situation justifies Government actions to introduce a regulatory system to regulate and facilitate skip operations (para. 5.6(d)).**

Response from the Administration

12. **The Administration agrees with the audit recommendations (paras. 5.9 to 5.11).**

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Use of skips

1.2 A skip is an open-top container of rectangular shape mostly made of iron. Its size ranges from 4 to 7 metres (m) in length, 2 to 3 m in width and 1.5 to 3 m in height. Very often, a skip is placed at roadside near a construction site or a building under renovation for temporary storage of construction and renovation waste removed from the site or building. Upon full loading with such waste or completion of works, a skip will be taken away by a lorry (see Photograph 1), and the waste will be disposed of at:

- (a) one of the two public filling areas (in Tseung Kwan O and Tuen Mun) for rocks, concrete, asphalt, rubbles, stones and earth; and
- (b) one of the three landfills (in Tseung Kwan O, Tuen Mun and Ta Kwu Ling) for other waste.

Photograph 1

**A skip being lifted onto a lorry at Performing Arts Avenue in Wan Chai
(June 2013)**



*Source: Photograph taken by Audit Commission at 7:59 a.m. on
20 June 2013*

Skip statistics

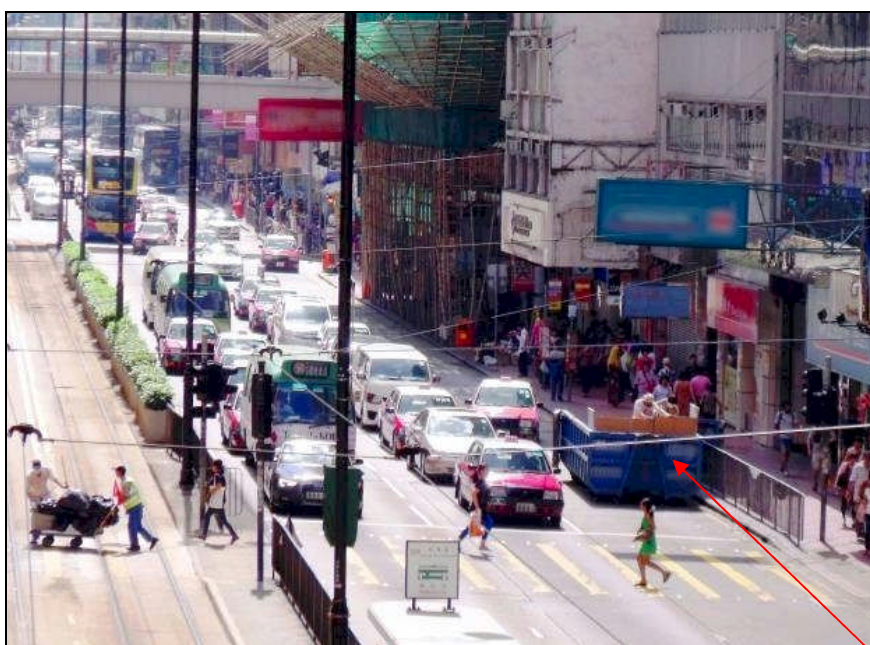
1.3 As early as October 2001, the Hong Kong Police Force (HKPF) raised the issue of skips placed on public roads with the Transport Department (TD) suggesting the setting up of a system to monitor the movement and placing of skips. However, up to August 2013, such a monitoring system had not been set up and no Government bureau and department (B/D) had been tasked with the overall responsibility for regulating skip operations. Moreover, no Government survey had been conducted on the operation of skips and the Government did not have statistics on the number of skip operators, the number of skips in operation, and the number of skips placed on public roads every day. According to road inspections conducted by the Audit Commission (Audit) on a day in May 2013 in three of the 18 District Council Districts (see details in PART 2), 53 skips were found to have been placed on public roads in the three Districts.

Public concerns over skip operations

1.4 From December 2003 to July 2013, Members of the Legislative Council (LegCo) had expressed concerns over roadside skips at seven LegCo meetings. Many District Council Members have also from time to time expressed concerns over the issue. Photograph 2 shows a skip causing obstruction to traffic.

Photograph 2

A skip causing obstruction to traffic at King's Road in North Point (June 2013)



A roadside skip

Source: Photograph taken by Audit at 9:42 a.m. on 30 June 2013

Introduction

1.5 Furthermore, during the period November 2009 (Note 1) to June 2013, the HKPF recorded 10 traffic accidents involving skips (Note 2), in which a total of 15 persons were injured (of whom 4 were seriously injured — Note 3). Photograph 3 shows a traffic accident involving a roadside skip.

Photograph 3

A traffic accident involving a roadside skip at Station Lane in Kowloon City (10 July 2011)

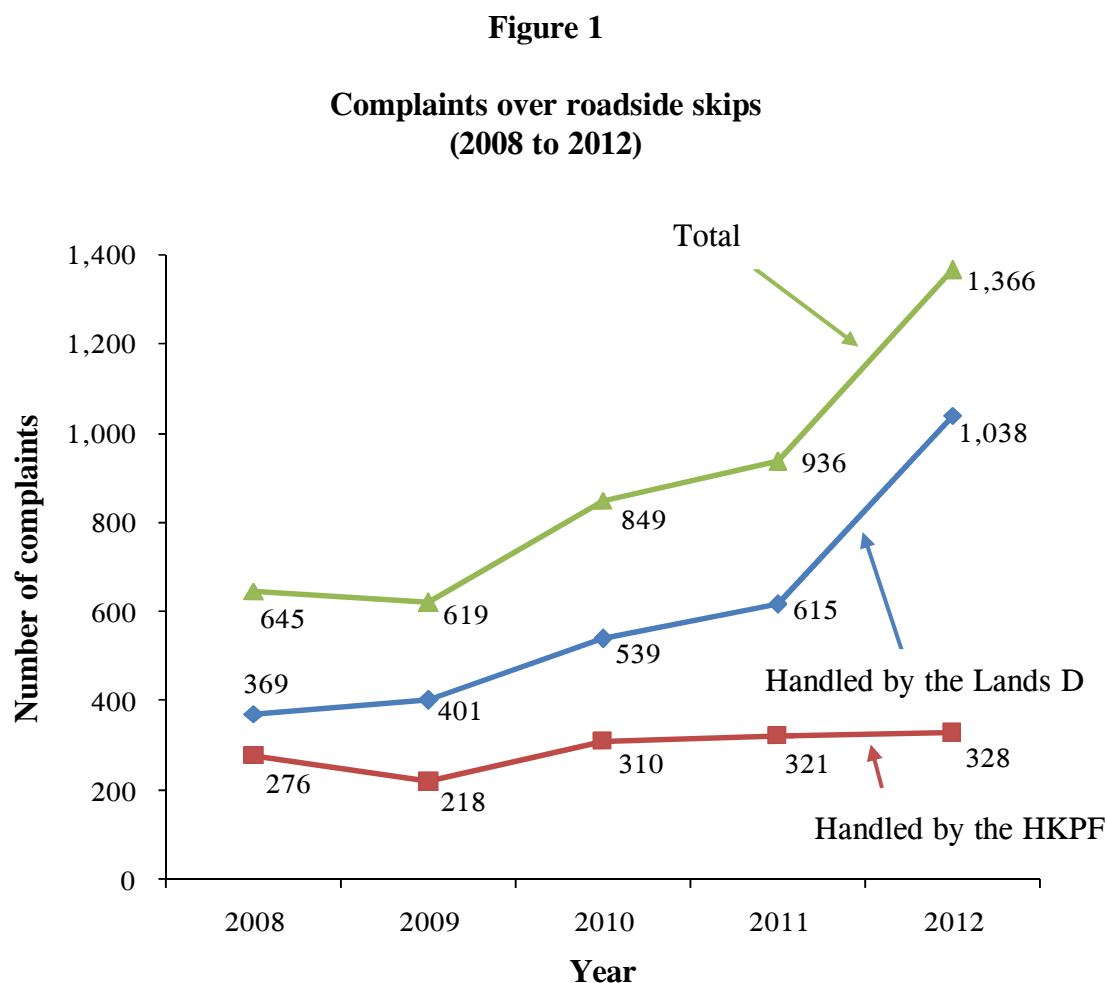


Source: HKPF records

A roadside skip

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- Note 1:** According to the HKPF, it does not have statistics before November 2009 on traffic accidents relating to roadside skips.
- Note 2:** Of these 10 traffic accidents, two took place in 2010, two in 2011, four in 2012, and two in 2013 (up to June).
- Note 3:** According to the HKPF, a person who is injured and admitted to hospital for more than 12 hours is considered as seriously injured.

1.6 Moreover, in recent years, there has been a significant increase in the number of public complaints over roadside skips which have caused road obstruction and posed safety risks to road users. These complaints are usually lodged with the Integrated Call Centre (commonly known as the Government Hotline 1823), the Lands Department (Lands D), the HKPF, the Environmental Protection Department (EPD), the TD and the Highways Department (HyD). Since no B/D has been tasked with the overall responsibility for regulating skip operations, the pertinent B/Ds have agreed that public complaints received by the Government Hotline 1823 and other B/Ds relating to skips which allegedly have caused serious obstruction or imminent danger to the public would be referred to the HKPF for follow-up actions. Otherwise, the complaints would be referred to the Lands D for necessary follow-up actions from the perspective of unlawful occupation of government land. As shown in Figure 1, the total number of complaints over roadside skips handled by the HKPF and the Lands D increased from 645 in 2008 to 1,366 in 2012, representing a 112% increase.



Source: Records of the Lands D and the HKPF

Government guidelines

1.7 In April 2007, as a joint departmental effort to tackle the problems caused by roadside skips, the EPD and the TD convened a meeting with six relevant trade associations, which represented about 80% of the skip operators, to discuss measures for improving the operation of roadside skips. In December 2007, the EPD issued a set of guidelines (EPD Guidelines) focusing on environmental measures on skip operations. In January 2008, the TD also published a set of “Guidelines for Mounting and Placing of Skips” (TD Guidelines) stipulating good practices for skip operations focusing on measures to reduce public safety risks and obstruction to pedestrian and vehicular traffic. As the two Guidelines are not formulated under any legislation, the EPD and the TD cannot compel skip operators to comply with the Guidelines.

Enforcement actions by the HKPF

1.8 Upon receiving a complaint over a roadside skip by the HKPF, it would send a police officer to the site to ascertain whether a skip is causing serious traffic obstruction or imminent danger to the public. In a warranted case, the HKPF would take action to remove the skip, and may take prosecution action against the skip operator concerned under section 4A of the Summary Offences Ordinance (Cap. 228). According to the HKPF, where an article is causing obstruction, inconvenience or endangerment, a police officer can seize the article by the common law power vested in him. From January 2008 to June 2013, the HKPF had taken actions to remove 32 roadside skips, and taken prosecution actions in 25 cases under the Summary Offences Ordinance. The skip operators in all 25 cases were convicted and their fines ranged from \$500 to \$2,000.

Enforcement actions by the Lands D

1.9 In response to a complaint over a roadside skip, if it is found that a skip is unlawfully placed on government land, Lands D officers would post a notice on the skip to require the land occupier to cease the land occupation before a date as specified in the notice. The Lands D's action taken is in accordance with section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28 — the Cap. 28 Ordinance) which deals with unlawful occupation of unleased land. As prescribed in the Cap. 28 Ordinance, if the occupier complies with the notice requirement, no further action will be taken by the Government. However, if the skip is not removed after expiry of the notice, the Lands D may remove it and may also take prosecution action against the occupier under the Cap. 28 Ordinance. According to the Lands D, it will only take such prosecution action if there is admissible, substantial and reliable evidence that an offence has been committed by an identifiable person. From January 2008 to June 2013, under the Cap. 28 Ordinance, the Lands D had posted 4,125 notices and removed 29 roadside skips, and instituted a prosecution against a skip operator who was acquitted after court proceedings.

Audit review

1.10 Using skips for disposal of construction and renovation waste is an effective means to reduce environmental nuisance and facilitates the construction and fitting-out trades in disposing of such waste in a tidy and orderly manner. Otherwise such waste will be haphazardly placed on roads before disposal. However, owing to the lack of a Government monitoring system, roadside skips very often unlawfully occupy public roads on government land, cause obstruction to vehicular and pedestrian traffic, and at times pose environmental, hygiene and safety risks to road users. In recent years, there has been a significant increase in the number of public complaints on roadside skips (see para. 1.6).

1.11 Audit has recently conducted a review of the Administration's efforts in managing roadside skips. The field audit work started in April 2013 and ended in August 2013. The audit focuses on the following areas:

- (a) problems caused by roadside skips (PART 2);
- (b) Government actions on regulating roadside skips (PART 3);
- (c) Government system for facilitating skip operations (PART 4); and
- (d) way forward (PART 5).

Audit has found that there are areas where improvements can be made by the Administration in managing roadside skips, and has made a number of recommendations to address the issues.

Acknowledgement

1.12 Audit would like to acknowledge with gratitude the full cooperation of the staff of the Lands D, the HKPF, the TD, the EPD, the Food and Environmental Hygiene Department (FEHD), the Home Affairs Department (HAD) and the HyD during the course of the audit review.

PART 2: PROBLEMS CAUSED BY ROADSIDE SKIPS

2.1 This PART examines problems caused by roadside skips relating to obstruction to vehicular and pedestrian traffic and safety risks posed to road users.

EPD and TD Guidelines on roadside skips

EPD Guidelines

2.2 In December 2007, after consulting the relevant trade associations, the EPD issued guidelines to the associations requesting skip operators to take the following environmental measures on a voluntary basis when operating roadside skips:

- (a) skips shall be covered with clean waterproof canvas;
- (b) skips shall have clear markings indicating that disposal of domestic, flammable, hazardous and chemical waste is not permitted; and
- (c) operation of skips shall be suspended from 11 p.m. every day to 7 a.m. of the following day, and at all times on public holidays.

TD Guidelines

2.3 In January 2008, again after consulting the relevant trade associations, the TD issued guidelines on mounting and placing of roadside skips for skip operators' compliance on a voluntary basis (see Figures 2 to 6). The salient guidelines include:

- (a) all exposed faces of skips shall be painted bright yellow;
- (b) company names and emergency contact telephone numbers shall be clearly marked on skips;
- (c) reflective strips in alternate red and white of a minimum width of 200 millimetres (mm) shall be affixed at the four vertical edges of skips;

Problems caused by roadside skips

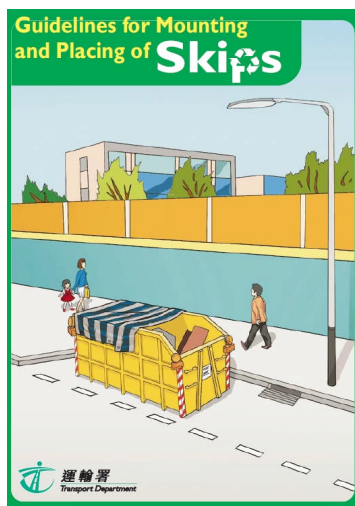
- (d) during the hours of darkness, yellow flashing lights shall be attached to each upper corner of skips;
- (e) subject to the approval by relevant Government departments (Note 4), skips can be placed at locations such as general lay-bys (except those with bus stops or “no-stopping” zones); and
- (f) skips should not be placed at:
 - (i) public roads with a speed limit exceeding 50 kilometres per hour;
 - (ii) any roadside within 25 m of junctions, roundabouts, pedestrian crossings and public transport facilities; and
 - (iii) “no-stopping” restricted zones, bus routes, cul-de-sacs and steep roads.

Note 4: *The names of relevant Government departments are not specified in TD Guidelines.*

Figures 2 to 6

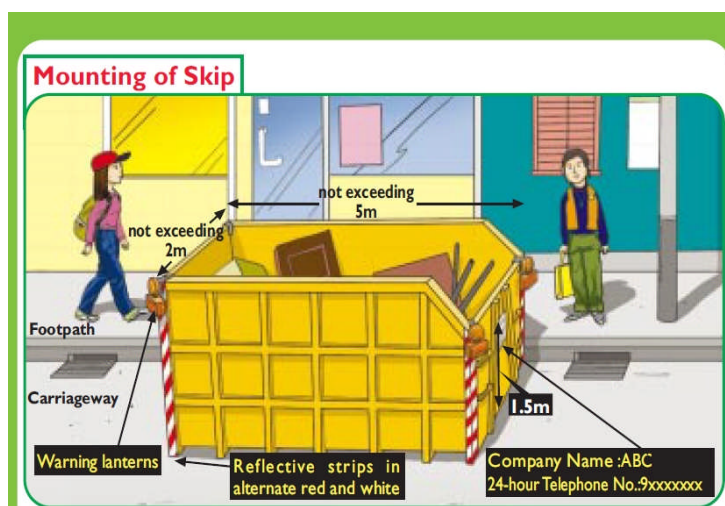
TD Guidelines on mounting and placing of skips

Figure 2



Shall be affixed with reflective strips

Figure 3



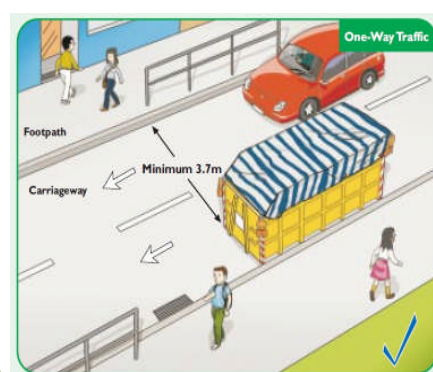
Shall be painted bright yellow and marked with company names and emergency contact telephone numbers

Figure 4



Shall be guarded by traffic cones having yellow flashing lights

Figure 5



Shall keep a minimum carriageway width after placing a skip

Figure 6



Shall not be placed on bus routes

Source: TD records

Areas for improvement

Voluntary compliance with EPD and TD Guidelines

2.4 Owing to the fact that EPD and TD Guidelines on skip operations have not been formulated under any legislation, skip operators are only requested to comply with the Guidelines on a voluntary basis, and the effectiveness of the Guidelines has not been evaluated by the two departments since their issue five years ago. Furthermore, skip operators may not have the incentives to comply with the Guidelines because a skip operator who has fully complied with EPD and TD Guidelines may still be subject to prosecution for causing obstruction under the Summary Offences Ordinance, or unlawful occupation of government land under the Cap. 28 Ordinance (see paras. 1.8 and 1.9).

Lack of Government statistics on roadside skips

2.5 The Government has not set up any system to monitor the placing of roadside skips, and no Government survey has been conducted to ascertain the magnitude of the problem. As a result, the Government does not have any statistics on the number of skip operators, the number of skips in operation and the number of skips placed at roadside every day (see para. 1.3). In December 2003, the Administration informed LegCo that skips were normally placed at roadside for no more than two to three days and their impact on traffic or pedestrians was brief. In Audit's view, the Government needs to conduct a survey to ascertain the magnitude of the skip problem and, if necessary, formulate appropriate strategies and action plans for regulating and facilitating skip operations.

Audit road survey and inspections of roadside skips

2.6 With a view to ascertaining the magnitude of the problem caused by roadside skips, Audit conducted the following two exercises:

- (a) a road survey from August 2012 (when commencing Audit research on the subject) to July 2013 carried out by Audit staff en route to and from office and sometimes on non-working days (one-year road survey); and

- (b) road inspections carried out in May 2013 by Audit staff in three District Council Districts, namely Hong Kong East, Yau Tsim Mong and Wan Chai (Note 5).

Audit staff prepared a checklist with reference to EPD and TD Guidelines (see Appendix A) for the inspections.

One-year road survey

2.7 From August 2012 to July 2013, five Audit staff spotted a total of 148 skips during the one-year road survey. Photographs were taken for skips identified during the one-year survey and they were included in Audit's samples for examination of their compliance with EPD and TD Guidelines.

Road inspections in May 2013

2.8 For each of the three Districts covered in Audit inspections (see para. 2.6(b)):

- (a) Audit staff conducted a road inspection on a day in May 2013 (Note 6) to locate roadside skips in one district (one-day inspections). Upon noting a roadside skip, Audit staff took photographs and checked the skip's compliance with EPD and TD Guidelines by completing a checklist;
- (b) in the night time (after sunset) on the same day as in (a) above, Audit staff conducted another inspection of the skips which had been located during day time to ascertain whether or not they had been removed and, if such skips were still on site, checked their compliance with TD Guidelines on attachment of yellow flashing lights on skips during the hours of darkness; and

Note 5: *From 2008 to 2012, the Lands D had received the highest number of pertinent complaints in these three of the 18 Districts.*

Note 6: *Audit inspections were carried out on 2 May 2013 (Thursday) in Hong Kong East District, 13 May 2013 (Monday) in Yau Tsim Mong District and 21 May 2013 (Tuesday) in Wan Chai District.*

Problems caused by roadside skips

- (c) on the third working day after (a) and (b) above, Audit staff conducted a follow-up inspection to ascertain whether the skips identified earlier were still on site.

2.9 Furthermore, in each of the three Districts inspected, Audit staff selected one location (Note 7) and conducted an inspection every day from 24 June to 31 July 2013 (38-day inspections) to ascertain the number of days on which skips were placed at these locations.

2.10 During the one-day inspections in the three Districts (see para. 2.8), Audit staff found a total of 53 roadside skips (see Table 1).

Table 1

**Audit's one-day inspections
(2 to 21 May 2013)**

District	Date of inspection	Skips found (No.)
Hong Kong East	2 May 2013	11
Yau Tsim Mong	13 May 2013	22
Wan Chai	21 May 2013	20
Total		53

Source: Audit inspections

Note 7: *The three locations were at King's Road near Cheung Hong Street in Hong Kong East District, Prince Edward Road West near Flower Market Road in Yau Tsim Mong District and Performing Arts Avenue in Wan Chai District.*

Problems caused by roadside skips

2.11 During the 38-day inspections (see para. 2.9), Audit staff found a total of 269 skips (see Table 2).

Table 2

**Audit's 38-day inspections
(24 June to 31 July 2013)**

Location	Number of days with one or more skips found (Day)	Total skips found in 38 days (Note) (No.)
King's Road, Hong Kong East	34	34
Prince Edward Road West, Yau Tsim Mong	38	38
Performing Arts Avenue, Wan Chai	38	197
Total		269

Source: Audit inspections

Note: If a skip was found at the same location on two consecutive days, the skip was counted as two skips.

Skip problems revealed in Audit road survey and inspections

2.12 During the one-day and 38-day inspections carried out from May to July 2013, Audit had identified a total of 322 (53+269) skips. Coupled with the 148 skips found during the one-year road survey (see para. 2.7), Audit had identified a total of 470 skips for examination. Audit examination of these 470 skips revealed that none of them had fully complied with EPD and TD Guidelines (see paras. 2.2 and 2.3). The number and percentages of the 470 skips not complying with each of EPD and TD Guidelines are shown in Appendix A.

2.13 In addition to unlawful occupation of government land, the high rates of non-compliance with EPD and TD Guidelines reveal that roadside skips may have given rise to the following problems:

- (a) environmental and hygiene problems (see para. 2.14);
- (b) obstruction to vehicular and pedestrian traffic (see para. 2.15);
- (c) posing safety risks to road users (see para. 2.16);
- (d) prolonged obstruction to vehicular and pedestrian traffic (see paras. 2.17 to 2.19); and
- (e) damage to roads (see para. 2.20).

Environmental and hygiene problems

2.14 The following statistics (details in Appendix A) reveal that some environmental and hygiene problems may have arisen in skip operations:

- (a) 100% of the skips did not have clear markings indicating that the disposal of domestic, flammable, hazardous and chemical waste was not permitted (see item 2 in Appendix A); and
- (b) 99% of the skips were not covered with clean waterproof canvas (see item 1 in Appendix A).

Obstruction to vehicular and pedestrian traffic

2.15 The following statistics (details in Appendix A) reveal that roadside skips may have caused obstruction to vehicular and pedestrian traffic:

- (a) 39% of the skips were placed at “no-stopping” restricted zones (see item 11(e) in Appendix A);
- (b) 19% of the skips were placed on bus routes (see item 11(f) in Appendix A); and
- (c) 33% of the skips caused obstruction, nuisance and safety threats to other road users (see item 12(e) in Appendix A).

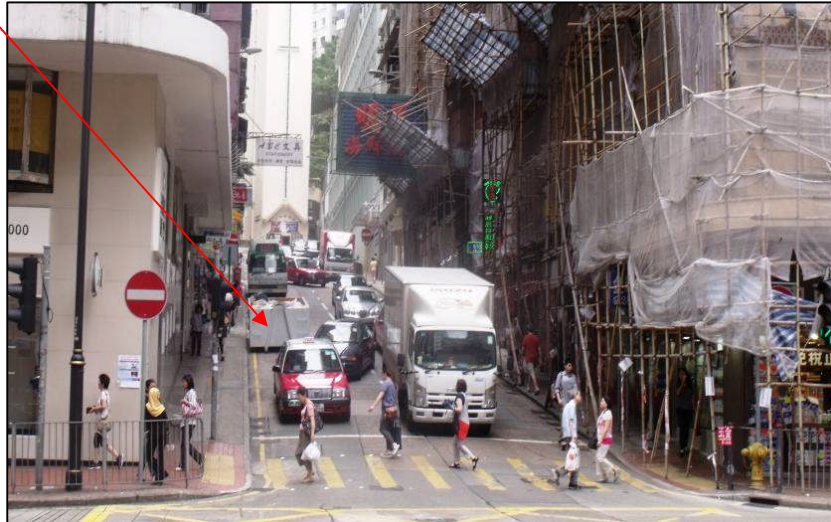
Photographs 4 and 5 show examples of skips obstructing vehicular and pedestrian traffic.

Problems caused by roadside skips

Photograph 4

**A skip obstructing vehicular traffic
at Cheung Hong Street in North Point
(July 2013)**

A roadside skip



Source: Photograph taken by Audit at 11:16 a.m. on 14 July 2013

Photograph 5

**A skip obstructing pedestrian traffic
at Stone Nullah Lane in Wan Chai
(May 2013)**

A roadside skip



Source: Photograph taken by Audit at 8:50 a.m. on 24 May 2013

Posing safety risks to road users

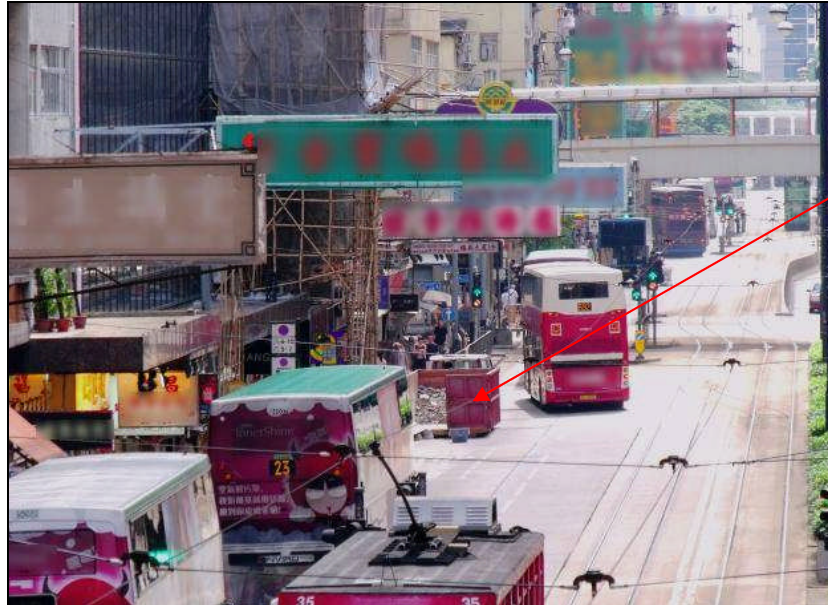
2.16 The following statistics (details in Appendix A) reveal that roadside skips may have posed safety risks to road users:

- (a) 99% of the skips were not affixed with reflective strips in alternate red and white of a minimum width of 200 mm at the four vertical edges of the skips (see item 6 in Appendix A);
- (b) 98% of the skips were not provided with yellow flashing lights during the hours of darkness (see item 7 in Appendix A);
- (c) 56% of the skip users did not comply with associated traffic-related regulations (see item 9 in Appendix A);
- (d) 25% of the skips were placed at roadside within 25 m of junctions, roundabouts, pedestrian crossings, public transport facilities, exits and run-ins of developments (see item 11(b) in Appendix A); and
- (e) 33% of the skips caused obstruction, nuisance and safety threats to other road users (see item 12(e) in Appendix A).

Photographs 6 and 7 show examples of skips posing safety risks to road users.

Photograph 6

**A skip posing safety risks to drivers at King's Road in North Point
(June 2013)**



A roadside skip

Source: Photograph taken by Audit at 10:29 a.m. on 29 June 2013

Photograph 7

**A skip posing safety risks to pedestrians at Heard Street in Wan Chai
(July 2013)**



A roadside skip

Source: Photograph taken by Audit at 10:23 a.m. on 11 July 2013

Prolonged obstruction to vehicular and pedestrian traffic

2.17 During Audit's one-day inspections in May 2013, Audit located 53 skips in the three Districts (see Table 1 in para. 2.10). Of these 53 skips, Audit found that 20 (38%) were still placed at the same location (either the same skip or a different one) on the third working day after the first day of inspection.

2.18 Furthermore, Audit's 38-day inspections (see Table 2 in para. 2.11) revealed that two (namely Prince Edward Road West, Yau Tsim Mong and Performing Arts Avenue, Wan Chai) of the three locations had been occupied by one to nine skips on all the 38 days covered in the inspections. For the remaining location (namely King's Road, Hong Kong East), a skip was found on 34 (89%) of the 38 days. Audit also found that one to nine skips had been placed at Performing Arts Avenue every day during the period. In this connection, Audit notes that, during the nine months from August 2012 to April 2013, the Lands D had received a total of 166 public complaints over skips placing at Performing Arts Avenue. Photographs 8, 9 and 10 show examples of such skips.

Photograph 8

**A skip placed at Prince Edward Road West in Mong Kok
(July 2013)**



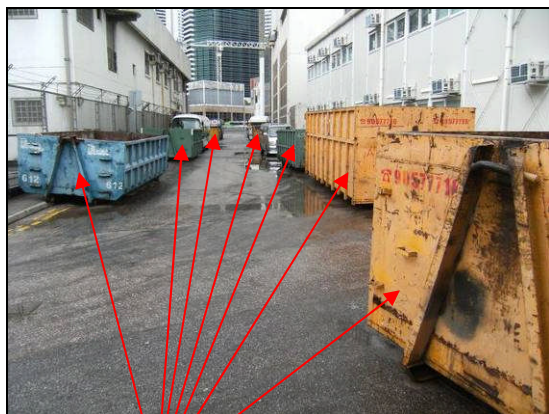
Source: Photograph taken by Audit at 6:24 p.m. on 4 July 2013

Problems caused by roadside skips

Photographs 9 and 10

Skips placed at Performing Arts Avenue in Wan Chai (July 2013)

Photograph 9



Roadside skips

Photograph 10



Roadside skips

Source: Photographs 9 and 10 taken by Audit at 8:18 a.m. and 8:14 a.m. respectively on 15 July 2013

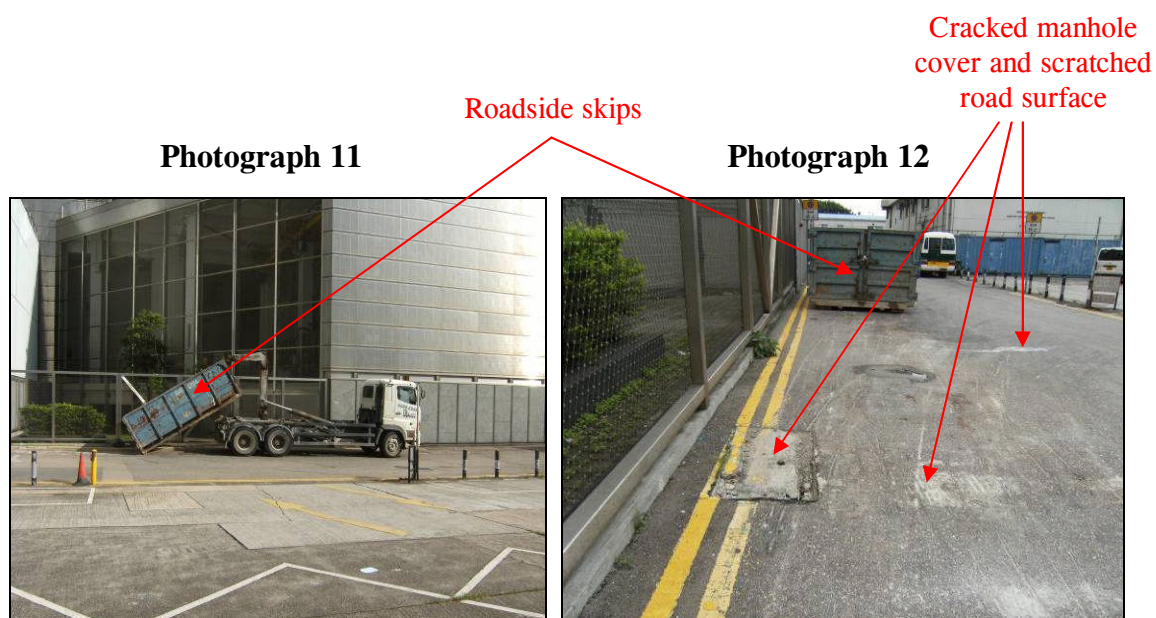
2.19 In Audit's view, the persistent placing of skips over a long period of time at some locations is not desirable as it may obstruct vehicular and pedestrian traffic.

Damage to roads

2.20 According to the HKPF, hauling of skips onto lorries would cause damage to roads. Audit notes that some skips might have caused damage to roads during the hauling and lifting of skips onto lorries, particularly when they were fully loaded with construction waste. Such road damage causes nuisance and inconvenience to road users, and requires Government repairing works and public expenditure. Photographs 11 and 12 show examples of such suspected cases.

Photographs 11 and 12

Suspected damage to road surface caused by skips at Performing Arts Avenue in Wanchai (June 2013)



Source: Photographs 11 and 12 taken by Audit at 8:08 a.m. on 27 June 2013 and 8:12 a.m. on 28 June 2013 respectively

Actions required to address the skip problem

2.21 Audit observations in paragraphs 2.12 to 2.20 reveal that Government action is needed to regulate roadside skips. Such skips, apart from unlawful occupation of government land, have caused environmental and hygiene problems, obstruction to vehicular and pedestrian traffic and damage to roads, and posed safety risks to road users. Therefore, the Government needs to take effective actions to address the issue. In order to contain the proliferation of the skip problem, the Government also needs to enhance publicity to remind skip operators of the need to refrain from unlawfully placing skips on public roads.

PART 3: GOVERNMENT ACTIONS ON REGULATING ROADSIDE SKIPS

3.1 This PART examines the actions taken by the Administration on managing roadside skips under the existing legislation.

Roles of various Government departments

3.2 In October 2001, the HKPF suggested that the TD should set up a system to monitor the movement and placing of skips. Thereafter, the two Government departments discussed the issue on some occasions. In May 2003, the “Interim Report on Measures to Improve Environmental Hygiene in Hong Kong” issued by the Team Clean (Note 8) recommended that construction waste temporarily left on pavements or streets should be deposited in skips.

3.3 Since November 2003, the Lands D, the HKPF, the TD and the HAD have discussed street management issues including matters relating to roadside skips at various meetings. In February 2004, subsequent to discussions at an inter-departmental meeting on street management, it was agreed that the Lands D and the HKPF would be responsible for taking enforcement actions on the placing of skips in public places. In January 2007, the Home Affairs Bureau (HAB) set up the Steering Committee on District Administration (Steering Committee — Note 9) to enhance support among Government departments for district management work, including the regulation of roadside skips, as tackling problems caused by roadside skips required effective co-ordination among related Government departments. In 2009, with a view to facilitating swifter enforcement actions on roadside skips, members of the Steering Committee agreed that the Lands D and the HKPF should take on the following roles and responsibilities on managing roadside skips:

Note 8: *Team Clean, set up in May 2003 and disbanded in August 2003, was led by the Chief Secretary for Administration and comprised members from the Home Affairs Bureau, the HAD, the Development Bureau and the Lands D. Its mission was to establish and promote a sustainable and cross-sectoral approach to improving environmental hygiene in Hong Kong.*

Note 9: *The Steering Committee was chaired by the Permanent Secretary for Home Affairs with members including the Commissioner of Police, the Director of Lands and the Commissioner for Transport.*

Lands D's role

- (a) for a roadside skip which does not cause obstruction, inconvenience or danger to the public or vehicles but involves unlawful occupation of government land, the Lands D will take actions under the Cap. 28 Ordinance (see para. 1.9). Under section 6 of the Ordinance:
 - (i) if unleased land is unlawfully occupied, the Lands D may cause a notice requiring the occupation of the land to cease before a date as specified in the notice;
 - (ii) if the occupation of unleased land does not cease as required by the notice, the Lands D may remove from the land the persons thereon, and take possession of any property or structure on the land; and
 - (iii) any person occupying unleased land who without reasonable excuse does not cease to occupy the land as required by the notice shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for six months; and

HKPF's role

- (b) for a roadside skip which causes serious obstruction or imminent danger to the public or vehicles, the HKPF will take removal actions under the common law and prosecution actions under section 4A of the Summary Offences Ordinance. Under the Ordinance, any person setting out or leaving any matter or thing which obstructs, inconveniences or endangers any person or vehicle in a public place (Note 10) shall be liable on conviction to a fine of \$5,000 or to imprisonment for three months.

Note 10: *Under the Summary Offences Ordinance, public place is defined as including all piers, thoroughfares, streets, roads, lanes, alleys, courts, squares, archways, waterways, passages, paths, ways and places to which the public have access either continuously or periodically, whether the same are the property of the Government or of private persons.*

Government actions on regulating roadside skips

3.4 Furthermore, the roles of the EPD and the TD on managing roadside skips are as follows:

EPD's role

- (a) in response to a request from the Steering Committee, in December 2007, after consulting skip operators, the EPD issued guidelines to the operators for them to adopt environmental measures on a voluntary basis for operating roadside skips (see paras. 1.7 and 2.2);
- (b) according to the EPD, control on the placing of skips on public roads is outside the scope of the Waste Disposal Ordinance (Cap. 354) overseen by the EPD;

TD's role

- (c) again in response to a request from the Steering Committee, in January 2008, after consulting skip operators, the TD issued guidelines to the operators for them to adopt good practices on a voluntary basis on mounting and placing of roadside skips (see paras. 1.7 and 2.3); and
- (d) according to the TD, as a roadside skip is not constructed or adapted as a vehicle for use on roads, it cannot be regarded as a vehicle for taking enforcement actions under the Road Traffic Ordinance (Cap. 374 — Note 11).

3.5 Moreover, the FEHD (responsible for administering environmental hygiene in public places), the HAD (responsible for co-ordinating work of B/Ds in district administration) and the HyD (responsible for maintenance of public roads) have expressed the following views regarding their roles on regulating roadside skips:

Note 11: *According to section 2 of the Road Traffic Ordinance, a vehicle means any vehicle, whether or not mechanically propelled, which is constructed or adapted for use on roads.*

FEHD's role

- (a) if a person using a skip has littered the surrounding area when loading or unloading waste, the FEHD will require the skip owner to clean up the place or it will take appropriate enforcement action under the Public Health and Municipal Services Ordinance (Cap. 132). In the past ten years, the FEHD has not taken any enforcement action against skip owners;

HAD's role

- (b) the problems caused by roadside skips are under the purview of the pertinent Government departments. The District Offices of the HAD will consider co-ordinating inter-departmental joint operations if the situation warrants; and

HyD's role

- (c) the HyD is responsible for maintenance of public roads and keeping them in safe and serviceable conditions. The HyD does not consider the placing of skips on public roads a problem in the execution of the road maintenance duties. For road damage caused by skip operations, based on the merits of individual cases, recovery action on repair cost from the related skip owners, or persons liable for the damage, can be taken under the common law.

3.6 In February 2009, the Steering Committee considered that, on the grounds that the problems caused by roadside skips might not be serious to the extent warranting a legislative exercise to establish a permit system for regulating roadside skips, the Administration should first work within the existing statutory powers to tighten enforcement against roadside skips, and the setting up of a permit system would not be pursued. In May 2010, the Steering Committee concluded that the problem of roadside skips was in general under control and the issue would not be pursued at the Committee's meetings for the time being.

Government actions

Actions taken by Lands D

3.7 According to Lands Administration Office Instructions (Lands D Instructions — Note 12), District Lands Office (DLO — Note 13) staff should:

- (a) take the following actions upon receiving a complaint or a referral on alleged placing of a skip on a public road:
 - (i) conducting a site inspection not more than two working days from the date of receiving a complaint or a referral (not counting the day on which the complaint or referral is received);
 - (ii) if a skip is found on site, posting a notice (see Figure 7) on the skip under the Cap. 28 Ordinance requiring the land occupiers to cease the occupation of government land within 24 hours (Note 14) counting from the forthcoming midnight;
 - (iii) conducting a re-inspection in the morning of the date specified in the notice posted on a skip. If the skip remains in the same location, DLO staff should instruct a Lands D contractor to remove the skip within the same day; and

Note 12: *The Lands D has promulgated internal instructions and guidelines in the Lands D Instructions for prevention, detection and rectification of unlawful occupation of government land.*

Note 13: *The Lands Administration Office of the Lands D oversees the following 12 DLOs: DLO/Hong Kong East, DLO/Hong Kong West and South, DLO/Islands, DLO/Kowloon East, DLO/Kowloon West, DLO/North, DLO/Sai Kung, DLO/Shau Tin, DLO/Tai Po, DLO/Tsuen Wan and Kwai Tsing, DLO/Tuen Mun and DLO/Yuen Long.*



Note 14: *According to the Lands D, the Government should give a land occupier a notice under section 6(1) of the Cap. 28 Ordinance of at least one day (not counting the day on which the notice is posted, or in practice a 24-hour period from midnight to midnight) to cease the occupation. Furthermore, if a Saturday, a Sunday or a public holiday falls within the 24-hour period, the notice period will be extended to a forthcoming working day.*

Government actions on regulating roadside skips

- (iv) if there is admissible, substantial and reliable evidence that an offence has been committed by an identifiable person, taking prosecution actions against the land occupiers under the Cap. 28 Ordinance; and
- (b) in each DLO, draw up a list of black spots of unauthorised placing of skips and formulate a patrol programme for the black spots, update the list regularly, and forward the list to the relevant District Councils and District Offices of the HAD to enlist their assistance in monitoring roadside skips placed at the black spots, and referring cases observed to the DLO for actions.

Figure 7

A Lands D notice posted on a skip

<p><i>File No.</i> _____</p>		<p>LANDS DEPARTMENT (SAI KUNG LANDS DEPARTMENT) 3RD & 4TH FLOORS, SAI KUNG GOVERNMENT OFFICES, 34 CHAN MAN STREET, SAI KUNG NEW TERRITORIES Tel. No. 2791 7034</p>
<p><i>Serial No.</i> _____</p>		
<p>LAND (MISCELLANEOUS PROVISIONS) ORDINANCE (Chapter 28 of The Laws of Hong Kong Special Administrative Region)</p>		
<p>NOTICE UNDER SECTION 6(1)</p>		
<p>LOCATION Shek Kok Road Car Park, Chun Wang Street Car Park, Wan Po Road and Chun Cheong Street Car Park, Tseung Kwan O (Unlawful Occupation of Unleased Government Land)</p>		
<p>TAKE NOTICE that the Authority designated pursuant to section 3 of the above Ordinance HEREBY REQUIRES occupiers of the land upon which this notice is posted, being unleased and occupied otherwise than under a licence, deed or memorandum of appropriation, to cease such occupation before the ...30-8-2012.....</p>		
<p>Dated 28-8-2012</p>		<p>(signed) _____ <i>for Director of Lands</i></p>
<p><small>NOTE:</small> Failure to comply with this Notice will result in forfeiture to the Government of any structure on or over the land and any property therein. Also the occupier may be prosecuted and any cost incurred by the Authority in connection with the demolition of any property or structure and in the exercise of the powers conferred by section 6 of the above Ordinance may be recovered from him.</p>		

Source: *Lands D records*

Remarks: *The second half of this document contained a same notice in Chinese.*

Government actions on regulating roadside skips

3.8 Between January 2008 and June 2013 (66 months), the Lands D had posted a total of 4,125 notices under the Cap. 28 Ordinance on roadside skips, and had removed 29 skips (on average one skip in two months) which had remained on site after expiry of the notices (see Table 3). According to the Lands D:

- (a) of the 4,125 skips involved, 4,096 (99%) had been removed before the Lands D's re-inspections. As a result, the pertinent land occupiers had been discharged from further liabilities under the Cap. 28 Ordinance; and
- (b) of the 29 non-compliance cases:
 - (i) the Lands D could only establish in one case admissible, substantial and reliable evidence that an offence had been committed by an identifiable person, and therefore it instituted prosecution action in that case. In the event, the land occupier was acquitted after court proceedings; and
 - (ii) for the other 28 cases, the Lands D could not take prosecution actions because it could not identify the responsible persons. In the event, the 28 skips were confiscated by the Lands D.

Government actions on regulating roadside skips

Table 3

**Lands D actions on roadside skips
(January 2008 to June 2013)**

Year	Complaint or referral handled (No.)	Notice posted (Note) (No.)	Skip removed by owner after posting notice (No.)	Skip removed by Lands D after posting notice (No.)	Prosecution (No. of cases)
2008	369	538	532	6	0
2009	401	532	523	9	0
2010	539	434	433	1	1
2011	615	743	739	4	0
2012	1,038	1,474	1,468	6	0
2013 (up to 30 June)	287	404	401	3	0
Total	3,249	4,125	4,096	29	1

Source: Lands D records

Note: In response to a complaint, DLO staff at times might find no skip being placed on site and hence post no notice under the Cap. 28 Ordinance. However, on other occasions, in response to a complaint, they might find more than one skip and hence post more than one notice.

Government actions on regulating roadside skips

Actions taken by HKPF

3.9 Since February 2004, the HKPF has issued and updated internal guidelines on handling complaints relating to skips (HKPF Guidelines). According to HKPF Guidelines issued in September 2012:

- (a) skips causing serious obstruction or imminent danger to the public on roads and pavements should be removed;
- (b) factors for judging whether a skip is causing serious obstruction and imminent danger include the level of the street lighting, volume of the road traffic and positioning of the skips;
- (c) if during a skip removal operation, a person approaches and claims to be the owner of the skip, the police officer should take a statement from him and, if being satisfied with his claim, return the skip to him and take necessary prosecution actions; and
- (d) if it is observed that a skip is not causing serious obstruction or imminent danger to the public, the case should be referred to the Lands D for follow-up actions.

3.10 In May 2013, the HKPF informed Audit that a skip would be considered as causing serious obstruction for taking enforcement actions if it was placed on a road:

- (a) interfering free flow of traffic and free movement of emergency vehicles;
or
- (b) where illegal parking would not be tolerated.

3.11 Between January 2008 and June 2013 (66 months), the HKPF had taken actions to remove 32 skips (on average one skip in two months) and prosecute persons involved in 25 cases (see Table 4). All the defendants of the 25 cases were convicted. The fines imposed ranged from \$500 to \$2,000.

Government actions on regulating roadside skips

Table 4

HKPF actions on roadside skips (January 2008 to June 2013)

Year	Complaint or referral handled (No.)	Skip removed by HKPF (Note 1) (No.)	Prosecution (No. of cases)	Warning given to skip operator (Note 2) (No.)	Forfeiture of skip (Note 3) (No. of cases)
2008	276	9	8	1	0
2009	218	6	6	0	0
2010	310	5	2	1	2
2011	321	6	3	1	2
2012	328	5	5	0	0
2013 (up to 30 June)	139	1	1	0	0
Total	1,592	32	25	3	4

Source: HKPF records

Note 1: In attending to a site in response to a complaint, a police officer might find no skip being placed on site, or a skip which was considered to be not causing serious obstruction or imminent danger to the public. In the latter situation, the police officer might not take removal actions but refer the case to the Lands D for actions (see para. 3.9(d)).

Note 2: For a case of unlawful placing of a skip, a police officer might give a warning to the skip operator instead of taking prosecution action.

Note 3: If a removed skip was not claimed by its owner, the skip would be forfeited and no prosecution action would be taken.

Areas for improvement

The Cap. 28 Ordinance not effective in regulating skip operations

3.12 Among the 12 DLOs, Audit selected the DLO/Hong Kong East (Note 15) for examination of the time taken by DLO staff in August 2012 to conduct site inspections in response to 10 public complaints and referrals on roadside skips, and conduct re-inspections after the DLO staff had posted 74 notices (Note 16) under the Cap. 28 Ordinance. Audit notes that DLO staff generally complied with Lands D Instructions on the time for conducting pertinent inspections in response to public complaints and referrals (see para. 3.7(a)(i)). In this connection, after receiving the 10 complaints and referrals, DLO inspections were carried out:

- (a) in 5 cases on the same working day;
- (b) in 3 cases on the first working day; and
- (c) in 2 cases on the second working day.

3.13 Furthermore, after posting the 74 notices, DLO re-inspections were carried out:

- (a) in 20 cases on the first working day; and
- (b) in 54 cases on the second working day.

Note 15: *The DLO/Hong Kong East had received the highest number of public complaints over roadside skips in the past five years (2008 to 2012).*

Note 16: *In response to a complaint, DLO staff sometimes found more than one skip and hence posted more than one notice.*

3.14 Owing to the fact that DLO staff, except for dealing with emergencies, were only on duty on weekdays and did not conduct inspections or re-inspections on Saturdays, Sundays and public holidays, they sometimes took a long time before conducting the inspections and re-inspections. For example, for the DLO/Hong Kong East in August 2012:

- (a) on one occasion, a complaint was received on a Friday, but the DLO staff carried out an inspection on the following Tuesday. There was a lapse of 89 hours (or 3 days and 17 hours) after receiving the complaint; and
- (b) on six other occasions, the DLO staff carried out re-inspections 84 to 115 hours (or 4 days and 19 hours) after posting notices.

3.15 In August and September 2013, the Development Bureau (DEVB), the Transport and Housing Bureau (THB), the Lands D and the TD informed Audit that:

DEVB and Lands D

- (a) the Lands D had sometimes taken slightly a longer time in taking enforcement actions mainly because the enforcement period for some cases had straddled across Saturdays, Sundays and public holidays, on which DLO staff were off duty except when dealing with emergencies. DLO staff in general did not work outside working hours, and Lands D Instructions were drawn up on the basis of working days;
- (b) land administration tools, in particular the Cap. 28 Ordinance, aimed to deal with management and control of land particularly those affecting the Government's land right on a long-term basis (such as unlawful occupation of government land by structures and unauthorised development). Even if land administration tools were to be used to control subjects that took place on land of transient or moving nature like roadside skips, priority would have to be given to unlawful occupation of government land of a more permanent nature. It would be difficult for the Lands D to give priority to managing skips as compared with other land occupation of a more permanent nature like unauthorised development which, if not subject to enforcement, would affect the Government's management and control over land in the long run;

Government actions on regulating roadside skips

- (c) the problems caused by roadside skips had been dealt with as a district management issue, and there was an existing framework for addressing the problems according to their nature through efforts of different Government departments and their respective statutory instruments (see paras. 3.3 to 3.5). From the land administration perspective, roadside skips were not a major type of unlawful occupation of government land. In any event, compared with the safety problems caused by roadside skips, unlawful occupation of government land was not a critical issue in relative terms;
- (d) a skip user could easily get around the Lands D's enforcement actions by moving a skip away from its original location before expiry of a notice posted under the Cap. 28 Ordinance and moving it back to the same place again later. Given the nature and focus of the Lands D's land control regime as backed up by the Cap. 28 Ordinance, it would be unlikely that the Lands D could act swiftly enough to tackle the problem of roadside skips. In fact, the Cap. 28 Ordinance was not an effective tool to deal with roadside skips, since a grace period under a notice had to be given (see Note 14 to para. 3.7(a)(ii)). As a matter of fact, posting such notices would allow the subject roadside skip to remain on site during the notice period and no enforcement action could be taken during the period;
- (e) the placing of roadside skips might create a number of problems from the district street management angle (such as environmental and hygiene problems and obstruction to pedestrians) or road safety angle (such as safety risks to road users and damage to roads), causing nuisance and sometimes danger to the neighbourhood including pedestrians and road users. Furthermore, skips were placed on roads which were dedicated for public use by vehicular and pedestrian traffic under the daily management of the TD, maintenance by the HyD, and law enforcement by the HKPF. Therefore, any review by controlling and facilitating skip operations, if conducted subsequently, should be conducted in the direction of road management, focusing on the problems of road safety, obstruction to vehicular and pedestrian traffic and damage to roads;

THB and TD

- (f) as a skip was by nature a piece of goods or a container with a pile of rubbish rather than a vehicle that could be licensed and regulated under the Road Traffic Ordinance, the TD considered that examining the problem of roadside skips from a licensing angle was not feasible;
- (g) road safety, obstruction to vehicular and pedestrian traffic, and damage to roads were not the only problems caused by roadside skips. Other problems caused by roadside skips included environmental and hygiene issues, obstruction to shop fronts and nuisance caused to the neighbourhood; and
- (h) under the Road Traffic Ordinance, the TD's main role on road and pavement was traffic management. However, traffic management was one of many road management duties that were shared among different Government departments, such as the Lands D (for controlling illegal occupation of roads and pavements), the HyD (for maintaining roads and pavements) and the FEHD (for cleansing roads and pavements). Hence, the TD was not the sole manager of roads (for vehicular traffic) and pavements (for pedestrian traffic).

3.16 As revealed in paragraphs 3.12 to 3.14, the Lands D at times had taken a long time in taking enforcement actions under the Cap. 28 Ordinance on roadside skips. However, members of the public have legitimate expectations that pertinent Government departments would take actions in a timely manner to address their complaints over placing of skips on public roads that may cause or have caused obstruction to vehicular and pedestrian traffic and posed safety risks to road users. Therefore, the long time taken by DLO staff on some occasions to address public complaints over roadside skips, and to conduct re-inspections after posting notices under the Cap. 28 Ordinance, may not be meeting the public expectations. In Audit's view, applying section 6 of the Cap. 28 Ordinance for regulating skip operations (see para. 3.3(a)) may not be effective. Therefore, the Government needs to establish a better system for regulating and facilitating skip operations (see PART 4).

Government actions on regulating roadside skips

Black-spot lists not drawn up in many DLOs

3.17 As of June 2013, of the 12 DLOs, only one DLO had compiled a black-spot list of unauthorised placing of skips, and only four DLOs had sought assistance from the pertinent District Councils and the District Offices of the HAD for referring observed skips to the DLOs for land-control actions (see para. 3.7(b)). According to the Lands D, apart from the DLO/Sai Kung, the other 11 DLOs did not consider it necessary to draw up black-spot lists because complaints over roadside skips were not particularly serious in their Districts. However, Audit notes that some locations in DLO/Hong Kong East District have persistently attracted public complaints over skips. For example, during the 12 months from August 2012 to July 2013, three locations in Wan Chai (in DLO/Hong Kong East District) had attracted a total of 252 related public complaints (see Table 5). The Lands D needs to remind DLOs of the need to comply with Lands D Instructions to draw up a list of black spots of unauthorised placing of skips, and formulate a patrol programme for the black spots.

Table 5

**Frequent complaints over roadside skips in Wan Chai
(August 2012 to July 2013)**

Location	Complaint received (No.)	Number of days with complaint in the 365 days	
		(Day)	(%)
Performing Arts Avenue	166	57	16%
Sharp Street East	60	38	10%
Hung Hing Road	26	14	4%
Total	252	N/A	N/A

Source: Lands D records

HKPF actions might not have reflected magnitude of the skip problem

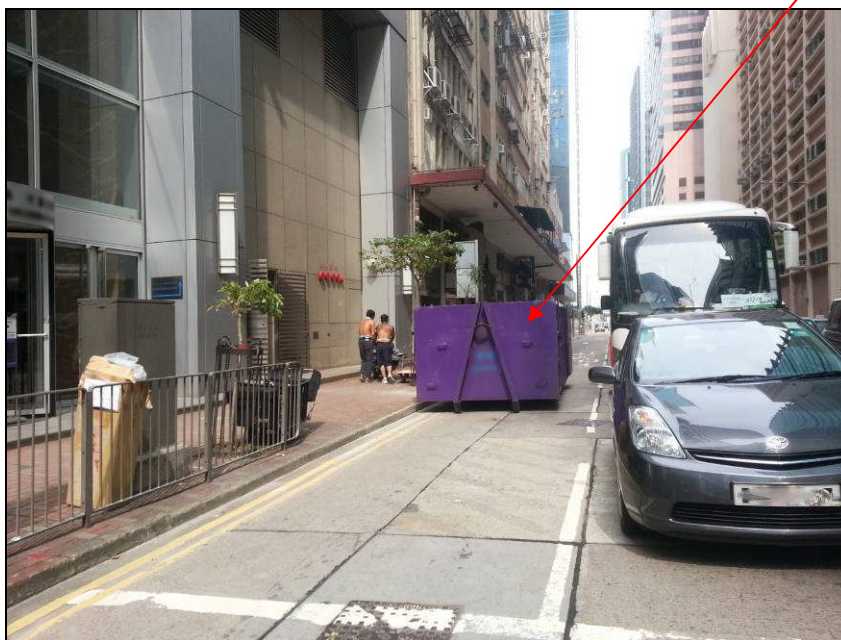
3.18 As shown in paragraph 3.11, from 2008 to 2013 (up to June), the HKPF on average had removed one skip in two months. Audit notes that the HKPF will only take removal and prosecution actions on skips causing serious obstruction or imminent danger to the public on roads and pavements. The removal of, on average, one skip in two months might not have reflected the magnitude of the skip problem. In this connection, Audit road survey and inspections from August 2012 to July 2013 revealed that:

- (a) 39% of the 470 skips had been placed at “no-stopping” restricted zones (see para. 2.15(a) and Photograph 13) which might cause danger to the public;

Photograph 13

**A skip placed in “no-stopping” restricted zone
at Java Road in North Point
(August 2012)**

A roadside skip



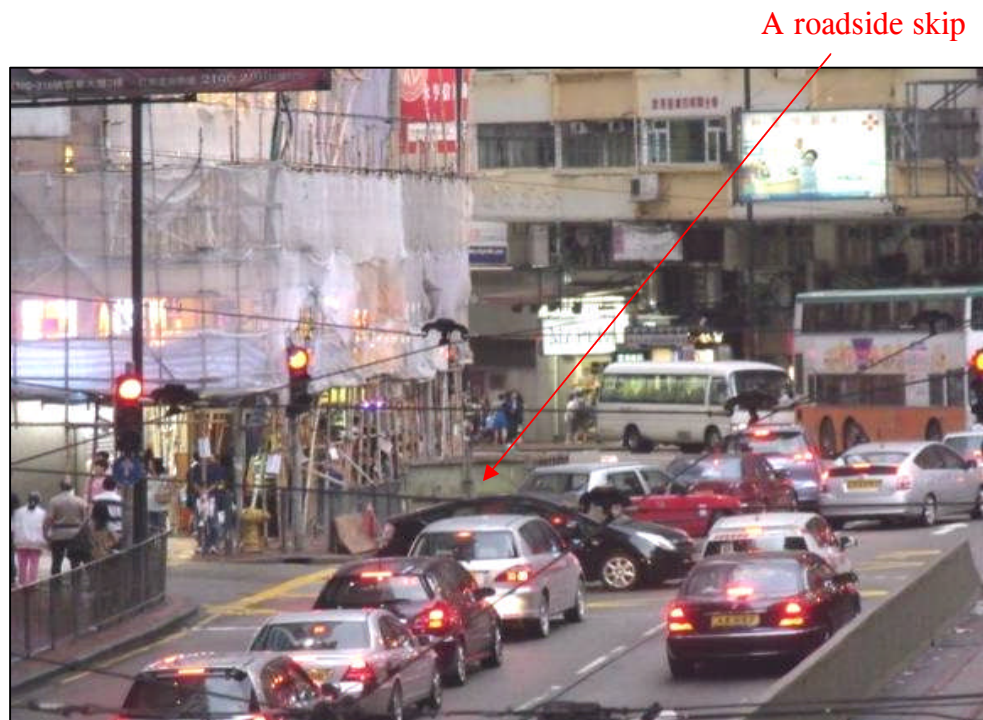
Source: Photograph taken by Audit at 9:45 a.m. on 1 August 2012

Government actions on regulating roadside skips

- (b) 25% of the skips had been placed at roadside within 25 m of junctions, roundabouts, pedestrian crossings, public transport facilities, exits and run-ins of developments (see para. 2.16(d) and Photograph 14) which might cause traffic accidents. Furthermore, 98% of the skips had not been provided with yellow flashing lights during the hours of darkness (see para. 2.16(b));

Photograph 14

**A skip placed close to a road intersection
at King's Road in North Point
(June 2013)**



Source: Photograph taken by Audit at 6:25 p.m. on 15 June 2013

Government actions on regulating roadside skips

- (c) 19% of the skips had been placed on bus routes (see para. 2.15(b)). Photograph 15 shows a skip being placed in front of a bus stop which might cause traffic accidents and obstruction to the public; and

Photograph 15

**A skip placed in front of a bus stop
at King's Road in North Point
(May 2013)**

A roadside skip



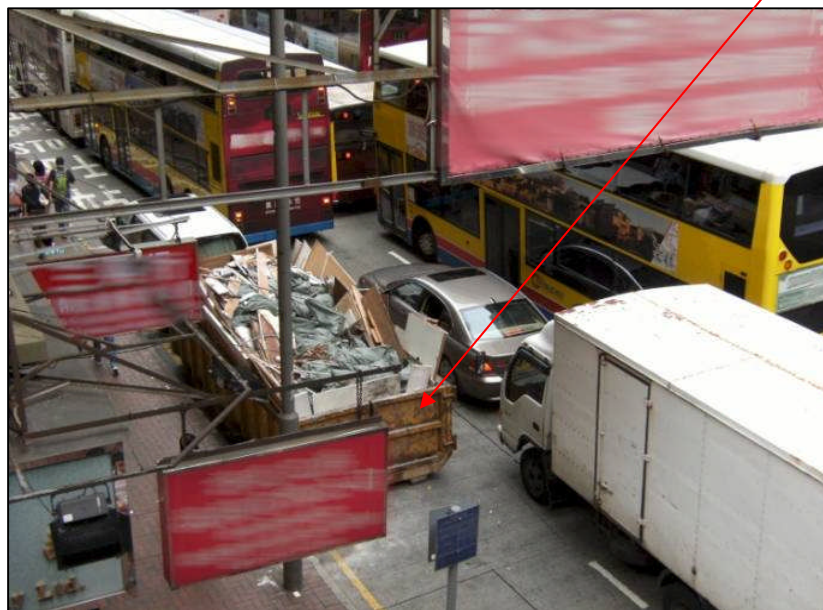
Source: Photograph taken by Audit at 4:24 p.m. on 2 May 2013

Government actions on regulating roadside skips

- (d) 92% of the skips had not been placed at general lay-bys (see item 8(a) in Appendix A). Photograph 16 shows a skip being placed occupying a lane of a main road during busy hours which might cause obstruction to the public.

Photograph 16

**A skip occupied a lane during busy hours
at Hennessy Road in Wan Chai
(May 2013)**



A roadside skip

Source: Photograph taken by Audit at 5:08 p.m. on 21 May 2013

3.19 In September 2013, the HKPF informed Audit that:

- (a) for skips causing serious obstruction or posing imminent danger to road users, frontline police officers had taken frequent informal actions, such as contacting the skip owners for the skip removal, and giving verbal warnings to them; and
- (b) removal of skips by the HKPF would only be a last resort, which also posed considerable practical difficulties, including the requirement of specialised towing arrangements and space to store the skips securely prior to their return to the owners or disposal in response to a court order.

3.20 In Audit's view, with a view to minimising incidence of skips causing obstruction and danger to the public, the HKPF needs to remind its officers of the need to step up enforcement actions on roadside skips.

Skip removal actions by public officers

3.21 According to the HKPF Guidelines, where a skip is causing obstruction, inconvenience or endangerment, a police officer can seize the skip by the common law power vested in him (see para. 1.8). In Audit's view, the Government needs to seek the Secretary for Justice's advice on, apart from police officers, whether public officers of other relevant Government departments (such as the Lands D, the TD and the EPD) can take effective removal actions on unauthorised roadside skips placed on public roads.

PART 4: GOVERNMENT SYSTEM FOR FACILITATING SKIP OPERATIONS

4.1 This PART examines the Government system for facilitating skip operators in conducting their business in a lawful and well-controlled manner.

Government system

4.2 In Audit's view, the fitting-out and construction trades have a practical need for roadside skips for temporary storage of construction waste. Instead of dumping construction waste on roads, skips can temporarily store waste before its disposal, which helps reduce environmental nuisance and facilitates the disposal of such waste in a tidy and orderly manner. However, there is at present a lack of an effective Government system to regulate and facilitate the lawful operation of skips.

4.3 Audit notes that some fitting-out companies have made provisions in their tender prices (for bidding building renovation works) for meeting fines relating to unlawful placing of skips on public roads for disposing of renovation waste. Audit considers this practice unsatisfactory and there is a need for the establishment of a better Government system for regulating and facilitating skip operations.

4.4 Under section 5 of the Cap. 28 Ordinance, a skip owner may apply for a licence from the Lands D for temporary occupation of government land. The Lands D may, on payment of a prescribed fee by the applicant, issue a licence for temporarily occupying unleased land. In December 2003, the Administration informed LegCo that:

- (a) the Lands D might issue a licence to a person for occupation of government land under the Cap. 28 Ordinance; and
- (b) skip owners would remove a skip from roadside once it was fully loaded and the skip would not stay very long at roadside. If skip owners needed to go through the application formalities and procedures, many of them would rather not make an application because of the long time required.

From January 2003 to August 2013, the Lands D had not received any application for a licence under the Cap. 28 Ordinance for placing skips on public roads.

Areas for improvement

No licence issued under the Cap. 28 Ordinance for skip operations

4.5 According to the Lands D:

- (a) from time to time, it receives applications for the occupation of government land for a short period of time for various purposes such as holding Cantonese operas, staging of variety shows, location film shooting and fund raising activities. These applications do not normally involve occupation of roads; and
- (b) at times, an application may cover more than one location and the intended occupation of government land may only involve the setting up of a table or a counter at a location.

4.6 According to Lands D Instructions:

- (a) in processing an application, if a site of government land applied for is available for the proposed temporary use, the related Government departments shall be consulted;
- (b) if no adverse comments are received from the related Government departments, and the application is not of controversial or unusual nature, licence approval may be granted for a maximum period of one month; and
- (c) other than non-profit making ventures, appropriate standard fees shall be charged (Note 17).

Note 17: *For example, for location film shooting, a fee of \$4,740 per application for one location up to one month shall be charged, and a further charge of \$4,740 for any part of a month thereafter shall apply. Furthermore, if no standard fee is stipulated, a DLO may assess the fee payable.*

Government system for facilitating skip operations

4.7 In September 2013, the DEVB and the Lands D informed Audit that:

- (a) generally speaking, the Lands D would grant a licence for occupation of unleased land only if the occupation by a skip would not cause any problem after consultation with relevant Government departments;
- (b) the present land control regime as backed up by the Cap. 28 Ordinance was not an effective tool for taking enforcement action on roadside skips without licences. A more fundamental question was how to take effective enforcement actions against skip owners or operators who did not apply for temporary licences for occupying unleased land; and
- (c) given the short-term and changing-location nature of skip operations and that non-compliance with the application and permit requirements would have little consequence, skip operators generally had little incentive, if any, to apply for a temporary licence under the Cap. 28 Ordinance. The Administration also needed to take into account the administrative work created for skip operators in applying for a licence and the Government departments concerned in processing an application every time a skip operator sought to occupy government land in a particular location.

4.8 According to the Lands D, it normally takes three to four weeks to issue a licence under the Cap. 28 Ordinance after receiving an application as it needs to process the application and consult the Government departments concerned. In Audit's view, in the event that skip owners or operators are required to apply for licences under the Cap. 28 Ordinance for skip operations, the Lands D needs to conduct a review of the system with a view to streamlining the approval process. Apart from police officers (see para. 3.21), if more public officers, including Lands D officers, can take effective removal actions on unauthorised roadside skips placed on public roads, skip operators may have greater incentives to apply for such a licence.

Lack of a regulatory system for regulating skip operations

4.9 The issue of roadside skips was first discussed among relevant B/Ds as early as 2001 (see para. 1.3). Relevant B/Ds and stakeholders were generally in support of introducing a permit system for regulating skip operations. For example:

- (a) **Relevant trade associations.** Relevant trade associations indicated at a meeting with the EPD and the TD in April 2007 that they preferred some kind of a permit system for regulating the placing of roadside skips to stepping up enforcement actions by the Government;
- (b) **HKPF.** At a Steering Committee meeting in May 2007, the HKPF indicated that it welcomed the setting up of a permit system as the HKPF could then trace the skip owners in case of emergencies;
- (c) **Lands D.** At a Steering Committee meeting in May 2007, the Lands D was invited to explore the feasibility of setting up a permit system as a long-term measure for regulating the placing of roadside skips. At the meeting, the Lands D indicated that an approach requiring skip operators to apply to the authority in advance for placing of skips could be explored with the relevant trade associations;
- (d) **Chief Secretary for Administration.** In January 2009, at a meeting discussing street management issues with the HAB and the HAD, the Chief Secretary for Administration said that a permit system for regulating the placing of roadside skips should be introduced; and
- (e) **TD.** At a Steering Committee meeting in February 2009, the TD said that it supported the regulation of roadside skips with a permit system and stood ready to provide professional advice from road safety and traffic management perspectives in processing permit applications.

Government system for facilitating skip operations

4.10 Notwithstanding the general support of introducing a permit system to regulate skip operations, some B/Ds have expressed views on their roles and responsibilities on the issue. For instance, the Lands D considered the placing of roadside skips a road management issue, while the TD considered it a land issue (and not a transport issue), as follows:

- (a) **Lands D.** The placing of skips involved use of road space, and sometimes metered parking spaces under the TD's management. Therefore, this subject matter should be managed by the TD. Furthermore, a permit system for skip operations and relevant legislation related to road safety and regulation of road traffic would not fall within the Lands D's area of expertise; and
- (b) **TD.** Roadside skips should not be managed by the TD as skips fell outside the definition of vehicles under the Road Traffic Ordinance. Furthermore, from the traffic management or road safety point of view, a roadside skip was no different from a pile of building materials or unwanted furniture causing obstruction, and was therefore a land issue. The TD would stand ready to provide technical input on processing applications for licences for the purpose. The TD was not prepared to administer the skip-permit system if such a system was to be set up.

4.11 In Audit's view, the introduction of a regulatory system (with appropriate legislative backup, if required) may facilitate the Government to more effectively monitor and control skip operations, including compelling skip operators to comply with EPD and TD Guidelines, and taking more effective enforcement actions.

Overseas experience

4.12 Audit researches reveal that some overseas authorities have implemented a permit system for the purpose. For example:

- (a) *Melbourne of Australia, New York City of the United States of America and Westminster of the United Kingdom.* A permit with specified conditions issued by the local authority or the transport or highway authority is legally required for placing skips at roadside. The pertinent authority has the discretion to specify conditions in the permit, such as dimensions, colour and lighting of a skip and location of placing a skip. Any person failing to comply with the permit conditions is liable to a fine. Furthermore, Audit notes that, in Westminster of London in the United Kingdom, the time required for applying for a permit for skip operations ranges from 3 to 10 days, depending on the location of placing a skip; and
- (b) *Singapore.* Instead of a permit system, requirements imposed by the Singapore Land Transport Authority for placing roadside skips are specified in the law. For example, skips are required to be properly maintained and kept in a working condition at all times, and they should not cause or become a cause of danger or inconvenience to persons using the streets. Any person not complying with the requirements is guilty of an offence and is liable to a fine.

4.13 In September 2013, the DEVB and the Lands D informed Audit that:

- (a) skips had to be placed at locations accessible to trucks and, hence, such locations were normally roadside or pedestrian pavements; and
- (b) if a licensing system was to be established and one of the criteria for licensing was that the skips should not cause road obstruction problems (a major problem currently caused by roadside skips), no permit could be granted and all skips would be subject to enforcement action.

Government system for facilitating skip operations

4.14 The issues caused by roadside skips are multi-dimensional, including unlawful occupation of government land, nuisance and obstruction caused to neighbourhood and pedestrians, obstruction and safety risks posed to road users, damage to roads, and environmental and hygiene problems. However, there is at present no B/D being designated to oversee skip operations. In Audit's view, the pertinent Government policy bureaux responsible for land, transport and environment issues need to assign a Government department to take up the responsibility for managing skip operations.

4.15 Audit notes that the Steering Committee considered at a meeting in February 2009 that neither the Cap. 28 Ordinance nor the Road Traffic Ordinance could provide suitable or adequate legislative backup for introducing a permit system for skip operations. The Steering Committee also considered that the problems caused by skip operations might not be serious to warrant the introduction of new legislation, and concluded in May 2010 that the problem of roadside skips was in general under control (see para. 3.6). In Audit's view, after the lapse of three years, it is an opportune time for the Government to revisit the issue and reconsider the way forward on more effectively regulating skip operations.

PART 5: WAY FORWARD

5.1 This PART examines the way forward for the Government to address the problems of skip operations.

Major audit observations

5.2 In PART 2, Audit has found that roadside skips, without proper regulation, have caused increasing environmental and hygiene problems, obstruction to vehicular and pedestrian traffic and damage to roads, posed safety risks to road users and given rise to unlawful occupation of government land (see para. 2.21). Therefore, the Government needs to take effective actions to resolve the problems.

5.3 In PART 3, Audit has reported that the Lands D sometimes took a long time to take action in response to public complaints over roadside skips. Removal and prosecution actions by the HKPF on roadside skips were not frequent. The two Government departments had removed 61 skips over a period of 66 months from January 2008 to June 2013, i.e. on average one skip in a month. Audit notes that the regulation of roadside skips is not the primary responsibility of the Lands D and the HKPF. The average removal of one skip in a month may not have reflected the magnitude of the skip problem.

5.4 In PART 3, Audit has also reported that the Steering Committee considered in 2009 that the problems caused by roadside skips might not be serious to the extent warranting a legislative exercise to establish a permit system. Furthermore, the Steering Committee concluded in 2010 that the problem of roadside skips was in general under control.

5.5 In PART 4, Audit notes that in the past ten years, the Lands D had not received any application for a licence under the Cap. 28 Ordinance for placing skips on public roads, and the Government had not established a regulatory system for regulating skip operations.

Audit recommendations

5.6 Audit has *recommended* that the Secretary for Development, the Secretary for the Environment and the Secretary for Transport and Housing should jointly:

- (a) conduct a survey to ascertain the magnitude of the skip problem (see para. 2.5);
- (b) conduct a review of the effectiveness of the existing enforcement actions on roadside skips taken by the Lands D and the HKPF (see paras. 3.16 and 3.18);
- (c) based on the results of (a) and (b),
 - (i) formulate strategies and action plans for regulating and facilitating skip operations (see para. 2.5); and
 - (ii) assign a Government department to take up the responsibility for regulating and facilitating skip operations (see para. 4.14);
- (d) conduct a review to reassess whether the current situation justifies Government actions to introduce a regulatory system to regulate and facilitate skip operations (see para. 4.14); and
- (e) seek the Secretary for Justice's advice on, apart from police officers, whether public officers of other relevant Government departments can take effective removal actions on unauthorised roadside skips placed on public roads (see para. 3.21).

5.7 Audit has also *recommended* that the Director of Lands should remind DLOs of the need to comply with Lands D Instructions (see para. 3.17) on:

- (a) drawing up a list of black spots of unauthorised placing of skips;
- (b) formulating a patrol programme for the black spots; and

- (c) seeking assistance from pertinent District Councils and District Offices of the HAD for referring observed skips to the DLOs for actions.

5.8 Audit has also *recommended* that the Commissioner of Police should remind HKPF officers of the need to step up enforcement actions on roadside skips (see para. 3.20).

Response from the Administration

5.9 The Secretary for Development, the Secretary for the Environment and the Secretary for Transport and Housing agree with the audit recommendations in paragraph 5.6. The Secretary for the Environment has said that he would work with the Secretary for Development and the Secretary for Transport and Housing in taking forward the follow-up actions.

5.10 The Director of Lands agrees with the audit recommendations in paragraph 5.7. She has said that the DLOs will be reminded of the need to comply with Lands D Instructions on drawing up a list of black spots of unauthorised placing of skips and formulating a patrol programme for the black spots whenever necessary.

5.11 The Commissioner of Police agrees with the audit recommendation in paragraph 5.8. He has said that:

- (a) the HKPF supports the introduction of a permit system with legislative backup for monitoring and controlling roadside skips. Without an effective permit system supported by legislation for managing roadside skips, police enforcement action would be compromised; and
- (b) in February 2008, the HKPF issued guidelines (attached with TD Guidelines) to all frontline officers on seizure of skips placed on public roads. Since then, the HKPF has regularly reminded its officers of the need to take stringent enforcement actions on roadside skips.

Appendix A
(paras. 2.6, 2.12, 2.14 to 2.16
and 3.18(d) refer)

**Compliance of 470 skips with EPD and TD Guidelines
(August 2012 to July 2013)**

Guideline	Skip <u>not</u> complying with Guideline	
	Number	Percentage of 470 skips
I. EPD Guidelines		
1. Skips shall be covered with clean waterproof canvas.	465	99%
2. Skips shall have clear markings indicating that disposal of domestic, flammable, hazardous and chemical waste is not permitted.	470	100%
3. Operation of skips shall be suspended from 11 p.m. every day to 7 a.m. of the following day, and at all times on public holidays.	15	25% of 60 skips (Note 1)
II. TD Guidelines		
<i>Skip mounting</i>		
4. All exposed faces of skips shall be painted bright yellow.	334	71%
5. Company names and emergency contact telephone numbers shall be clearly marked on skips.	283	60%
6. Reflective strips in alternate red and white of a minimum width of 200 mm shall be affixed at the four vertical edges of skips. The strips shall be mounted vertically for a minimum length of 1 m.	464	99%
7. During the hours of darkness, yellow flashing lights shall be attached to each upper corner of skips. Alternatively, skips shall be guarded by traffic cones and signs, with yellow flashing lights placed on traffic cones.	51	98% of 52 skips (Note 2)

Appendix A

(Cont'd)

(paras. 2.6, 2.12, 2.14 to 2.16
and 3.18(d) refer)

Guideline	Skip <u>not</u> complying with Guideline	
	Number	Percentage of 470 skips
II. TD Guidelines		
<i>Skip placing</i>		
8. Subject to the approval by relevant Government departments, skips can be placed at:		
(a) general lay-bys (except those with bus stops or “no-stopping” zones)	432	92 %
(b) kerbsides of one-way roads with carriageway width of 6 m or more	9	2 %
(c) kerbsides of roads with clear carriageway width of not less than 3.7 m (each flow direction) after placing	10	2 %
9. Skip users should comply with associated traffic-related regulations.	264	56 %
10. Skips shall be maintained in a clean and tidy condition.	50	11 %
11. Skips should not be placed at the following locations:		
(a) public roads with a speed limit exceeding 50 kilometres per hour	0	0 %
(b) any roadside within 25 m of junctions, roundabouts, pedestrian crossings, public transport facilities, exits and run-ins of developments	119	25 %
(c) obstructing emergency exits	0	0 %
(d) road bends	4	1 %
(e) “no-stopping” restricted zones	182	39 %

Appendix A

(Cont'd)

(paras. 2.6, 2.12, 2.14 to 2.16
and 3.18(d) refer)

Guideline	Skip <u>not</u> complying with Guideline	
	Number	Percentage of 470 skips
II. TD Guidelines		
(f) bus routes	90	19%
(g) cul-de-sacs	12	3%
(h) all footpaths and pedestrianised streets (full-time or part-time)	8	2%
(i) steep roads	9	2%
12. Skips should not:		
(a) obscure traffic signs and signals	0	0%
(b) impede road surface drainage	0	0%
(c) block manholes and gullies	0	0%
(d) be placed in rows or groups	144	31%
(e) cause obstruction, nuisance and safety threats to other road users	156	33%

Source: Audit road survey and inspections

Note 1: Audit had not conducted any road survey or inspection between 11 p.m. and 7 a.m. during the period. Moreover, during inspections on public holidays, Audit staff had located 60 skips, of which 15 (25%) were found not complying with this EPD Guideline.

Note 2: During Audit's road survey and inspections, Audit staff had located 52 skips during hours of darkness, of which 51 (98%) were found not complying with this TD Guideline.

Acronyms and abbreviations

Audit	Audit Commission
B/D	Bureau and department
DEVB	Development Bureau
DLO	District Lands Office
EPD	Environmental Protection Department
FEHD	Food and Environmental Hygiene Department
HAB	Home Affairs Bureau
HAD	Home Affairs Department
HKPF	Hong Kong Police Force
HyD	Highways Department
Lands D	Lands Department
LegCo	Legislative Council
m	Metres
mm	Millimetres
TD	Transport Department
THB	Transport and Housing Bureau