

立法會
Legislative Council

LC Paper No. CB(1)306/07-08
(These minutes have been seen
by the Administration)

Ref: CB1/BC/4/06/1

**Bills Committee on
Energy Efficiency (Labelling of Products) Bill**

**Minutes of the ninth meeting
held on Tuesday, 13 November 2007, at 10:45 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Fred LI Wah-ming, JP
Hon SIN Chung-kai, SBS, JP
Hon CHOY So-yuk, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Vincent FANG Kang, JP

Members absent : Dr Hon LUI Ming-wah, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon WONG Ting-kwong, BBS

Public officers attending : Environment Bureau

Miss Emmy WONG
Principal Assistant Secretary for the Environment (Energy) 1

Miss Joceline CHUI
Assistant Secretary for the Environment (Energy) 3

Electrical and Mechanical Services Department

Mr Stephen CHAN, JP
Deputy Director/Regulatory Services (Acting)

Mr WONG Lap-chi
Senior Engineer/Energy Efficiency A4

Department of Justice

Ms Phyllis POON
Senior Government Counsel (Acting)

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Ms Debbie YAU
Senior Council Secretary (1)1

I Confirmation of minutes

(LC Paper No. CB(1) 222/07-08 -- Minutes of the meeting held on
30 October 2007)

The minutes of the meeting held on 30 October 2007 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1) 223/07-08(01) -- List of follow-up actions arising
from the discussion on
30 October 2007

LC Paper No. CB(1) 223/07-08(02) -- Administration's response to LC
Paper No. CB(1) 223/07-08(01)

LC Paper No. CB(3) 457/06-07 -- The Bill

Ref: EP 86/08/70 (07) -- The Legislative Council Brief

LC Paper No. CB(1) 1913/06-07(03) -- A list of questions raised by
Hon CHOY So-yuk

LC Paper No. CB(1) 2065/06-07(01) -- Administration's response to LC
Paper No. CB(1) 1913/06-07(03)

LC Paper No. CB(1) 2423/06-07(03) -- Summary of deputations' views on
individual clauses of the Bill)

2. The Committee deliberated (Index of proceedings attached at **Annex A**).

3. The Administration was requested to -

(a) List out the types of offences under the Bill and the corresponding penalties, and also review the levels of penalties to ensure consistency;

(b) Advise whether the fine under clause 12, or other similar clauses, was applicable to a single offence of unauthorized use of energy label or to

every product of the model concerned;

- (c) Advise whether the remedy period under clause 14 and the 14-day period under clauses 17 and 18 could be extended;
- (d) Consider specifying the ranks of public officers to be appointed as authorized officers under clause 21 with reference to similar provisions in other ordinances and also provide a list of duties to be undertaken by the authorized officers under the Bill; and
- (e) Consider including in clause 22 the requirement for an authorized officer to show the warrant issued under clause 25 before entering into the premises concerned, and also consider including in the Electrical and Mechanical Services Department's internal guidelines for authorized officers the need to inform the occupier of the premises his right to seek legal advice as well as the definition for "domestic premises".

4. The next two meetings would be held as follows:

- (a) Tuesday, 27 November 2007, at 10:45 am; and
- (b) Thursday, 6 December 2007, at 8:30 am.

III Any other business

5. There being no other business, the meeting ended at 12:50 pm.

**Proceedings of the meeting of the
Bills Committee on Energy Efficiency (Labelling of Products) Bill
Meeting on Tuesday, 13 November 2007, at 10:45 am
in Conference Room A of the Legislative Council Building**

| Time Marker | Speaker | Subject(s) | Action Required |
|-----------------|---|---|--|
| 000000 - 000146 | Chairman | Confirmation of minutes of the meeting held on 30 October 2007 (LC Paper No. CB(1) 222/07-08) | |
| 000147 - 001504 | Administration Chairman Assistant Legal Adviser 2 (ALA2) | <p><u>Administration's response to the list of follow-up actions arising from the discussion on 30 October 2007</u> (LC Paper No. CB(1) 223/07-08(02))</p> <p>Administration's advice that unlike the transitional arrangement adopted by Australia where products covered by the original energy efficiency grading could only be supplied within a specified period after the updating of energy efficiency grading standards, prescribed products that had been manufactured in or imported into Hong Kong before the relevant new energy efficiency standards took effect could continue to be sold indefinitely. This was similar to the practice adopted by member states of the European Union</p> | |
| 001505 - 011939 | Chairman Administration ALA2 Mr SIN Chung-kai Mr Vincent FANG Miss CHOY So-yuk | <p><u>Continuation of clause-by-clause examination of the Bill</u> (LC Paper Nos. CB(1)1913/06-07(03), 2065/06-07(01) and 2423/06-07(03))</p> <p>Discussion on the types of offences under the Bill and the corresponding penalties</p> <p><u>Clause 12</u></p> <p>Administration's advice that the Department of Justice, in consultation with the Director of Electrical and Mechanical Services (DEMS), would take prosecution against a person for unauthorized use of energy label under clause 12 if there was a proof of intention to deceive or mislead another person.</p> | The Administration to list out the types of offences under the Bill and the corresponding penalties; to advise whether the fine under clause 12, or similar clauses, was applicable to a single offence of unauthorized use of energy label or to every product model concerned; and to advise whether the remedy period under clause 14 could be extended |

| Time Marker | Speaker | Subject(s) | Action Required |
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| | | <p>Discussion on whether the fine under clause 12, or other similar clauses, was applicable to a single offence of unauthorized use of energy label or to every product of the model concerned</p> <p>Chairman's request for the Administration to consider whether imprisonment should be imposed for offences under clause 12 to tally with the high level of fine</p> <p><u>Clause 14</u></p> <p>Administration's advice that the Electrical and Mechanical Services Department (EMSD) would conduct random checking of the prescribed product models in the market. DEMS would serve improvement notice in respect of energy labels under clause 14 requiring remedial measures to be taken if the energy efficiency performance of a certain batch of product models was different from that stated in the test reports, or when the size of the labels varied etc.</p> <p>Discussion on the feasibility of extending the remedy period under clause 14 by DEMS by virtue of section 40(1) of the Interpretation and General Clauses Ordinance (Cap. 1) or by amending proposed section 14(2)(c) of the Bill</p> <p><u>Clause 15</u></p> <p>Chairman's concern about the use of the phrase "is supplying" under clause 15(1)</p> | |
| 011940 - 013016 | Administration Chairman Miss CHOY So-yuk Mr Vincent FANG Mr SIN Chung-kai | <p><u>Clauses 17 and 18</u></p> <p>Chairman's concern about the short duration of 14 days under clause 17 for the specified person to make written representation after the serving of notice by DEMS to remove from record the reference number of a listed model. Her concern was shared by</p> | The Administration to advise whether the 14-day period under clauses 17 and 18 could be extended |

| Time Marker | Speaker | Subject(s) | Action Required |
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| | | <p>Miss CHOY who also pointed out that the specified person might not be able to serve a notice in writing according to clause 18 to inform each person to whom he/she had supplied a prescribed product of the listed model of the removal within 14 days after DEMS had served on him/her the notice under clause 16</p> <p>Mr Vincent FANG's view that the 14-day requirement to make written representation under clause 17 was too rigid. EMSD, having noted the energy efficiency of a product model was lower than that specified in the energy label, should advise the specified person to make improvement and re-supply the product models, rather than removing the reference number, so that these models could continue to be sold in the market</p> <p>Administration's advice –</p> <p>(a) As EMSD would normally contact the specified person for clarification and improvement before DEMS served on him/her the notice of removing reference number of the listed model from record, 14 days should be sufficiently long for the person to make written representation; and</p> <p>(b) As specified person should already have the record of suppliers to whom the concerned prescribed products were supplied within the year before the removal of a reference number, a 14-day period should be sufficiently long for the specified person to notify suppliers concerned about the removal. EMSD would in parallel publicize the non-compliance widely with a view to notifying the consumers</p> | |

| Time Marker | Speaker | Subject(s) | Action Required |
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| 013017 - 013608 | Miss CHOY So-yuk Administration Chairman ALA2 | <u>Clause 19</u> Discussion on the sensitivity or otherwise of the information required to be furnished to DEMS | |
| 013609 - 014720 | Administration Chairman ALA2 Mr Vincent FANG Miss CHOY So-yuk | <u>Clauses 20 and 21</u> Discussion on the levels of penalties for different types of offences under the Bill Discussion on the need to specify the rank of public officers to be appointed as authorized officers under clause 21 Chairman's request for a list of duties to be undertaken by authorized officers under the Bill | The Administration to review the levels of penalties to ensure consistency, to consider specifying the ranks of public officers to be appointed as authorized officers under clause 21 with reference to similar provisions in other ordinances and to provide a list of duties to be undertaken by authorized officers under the Bill |
| 014721 - 015443 | Administration Chairman Mr SIN Chung-kai Miss CHOY So-yuk Mr Vincent FANG | <u>Clauses 22 and 23</u> Discussion on the definition of "domestic premises" | The Administration to consider including the definition of "domestic premises" in EMSD's internal guidelines |
| 015444 - 015835 | Administration Miss CHOY So-yuk Administration | <u>Clause 24</u> Discussion on the need for an authorized officer to show the warrant issued under clause 25 before entering into the premises concerned, and to inform the occupier of the premises his rights to seek legal advice | The Administration to consider including in clause 22 the requirement for an authorized officer to show the warrant issued under clause 25 before entering into the premises concerned, and in EMSD's internal guidelines for authorized officers the need to inform the occupier of the premises his rights to seek legal advice |

| Time Marker | Speaker | Subject(s) | Action Required |
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| 015836 - 020050 | Chairman | Dates of next meetings | |

Council Business Division 1
Legislative Council Secretariat
23 November 2007