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CB(1) 1913/06-07(02)

15 June 2007

Clerk to Bills Committee
(Attn.: Miss Becky YU)
Bills Committee on Energy Efficiency (Labelling of Products) Bill
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss Yu,

Bills Committee on Energy Efficiency (Labelling of Products) Bill

Thank you for your letter dated 4 June 2007. At the request of the Bills Committee on Energy Efficiency (Labelling of Products) Bill (the "Bill"), I attach an information paper at Annex on the enforcement measures under the Bill and the maximum penalties in the event of non-compliance for Members' information.

We are considering the views and comments made by deputations and will provide a response to the Bills Committee shortly. For the remaining two follow-up actions that require discussion with the trades, we will discuss with the trade on the issues and revert the outcome of discussion to the Bills Committee as soon as possible.

Yours sincerely,

(Miss Joceline CHUI)

for Director of Environmental Protection

c.c.

DEMS
DoJ

(Attn.: Mr L C WONG)
(Attn.: Ms Phyllis POON)

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

Enforcement Powers and Penalties

Background

In response to the discussion of the Bills Committee on Energy Efficiency (Labelling of Products) Bill (the “Bill”) on 1 June 2007, this paper sets out the enforcement measures under the Bill to ensure compliance by manufacturers, importers and retailers under the proposed mandatory labelling scheme, and the maximum penalties in the event of non-compliance.

Duty of Manufacturers and Importers

2. Clause 4 of the Bill prohibits a manufacturer or importer of a prescribed product from supplying the product unless it is a product of a listed model with a reference number that is assigned in the name of the manufacturer or importer and included in the record kept by the Director of Electrical and Mechanical Services (the “Director”), and bears an energy label that complies with the requirements specified in Schedule 2 of the Bill. A person who wishes a reference number to be assigned to a product model in his name is required to submit the specified information and specified documents in respect of the product model to the Director in accordance with Clause 6. A manufacturer or importer supplying prescribed products without a reference number or energy label is liable on conviction to a fine at level 6.

3. A person who has submitted the specified information and specified documents under Clause 6 is required to notify the Director within 21 days of any change in the information or document submitted (Clause 9), and to submit to the Director up-to-date information in respect of a listed model at intervals not exceeding 5 years (Clause 10). Failure to comply with the requirements under Clauses 9 or 10 without reasonable excuse is liable on conviction to a fine at level 1.

Duty of Person Other Than Manufacturer or Importer

4. Clause 5 prohibits a person other than a manufacturer or importer of a prescribed product (such as retailers) from supplying the product unless he has ensured that the product is a product of a listed model with a reference number that is included in the record and bears

an energy label that complies with the requirements specified in Schedule 2. A person other than manufacturer or importer supplying prescribed products without reference number or energy label is liable on conviction to a fine at level 6.

Unauthorized Use of Energy Label

5. Clause 12 prohibits a person from using an energy label, with intent to deceive or mislead, on a product so as to mislead another person into believing that the product (which is not of a listed model) is of a listed model or the product (whether or not it is of a listed model) conforms with the information on the energy label. A person contravening Clause 12 is liable on conviction to a fine at level 6.

Other Enforcement Powers

6. Parts 3 and 4 of the Bill contain provisions relating to general enforcement powers, including the power to serve improvement notices (Clause 14) and prohibition notices (Clause 15) and the power to remove the reference number of a listed model from the record (Clause 16). The Director also has the power to obtain information (Clause 19), require the testing of prescribed products (Clause 27) and require the supplier to publicize non-compliances of certain provisions under the Ordinance (Clause 30). Clause 20 makes it an offence for a person to furnish false information or documents. A person convicted under Clause 20 is liable to a fine at level 6 and to imprisonment for 6 months. For the purpose of ascertaining whether this Ordinance has been complied with, an authorized officer may enter any premises (except domestic premises) for routine inspection (Clause 23) or he may enter any premises (including domestic premises) with a warrant (Clause 24). In the premises so entered, the authorized person has power to require information and documents, to seize and detain any prescribed products, etc., or to detain any person found on such premises (Clause 26). It is also an offence to obstruct an authorized officer without reasonable excuse in the exercise of his power under Clauses 23, 24 and 26.

Environmental Protection Department
Electrical and Mechanical Services Department
June 2007