

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2157/07-08  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/4/07/2

**Bills Committee on Product Eco-responsibility Bill**

**Minutes of the tenth meeting  
held on Thursday, 5 June 2008, at 1:00 pm  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon CHOY So-yuk, JP (Chairman)  
Hon CHAN Yuen-han, SBS, JP  
Hon SIN Chung-kai, SBS, JP  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Vincent FANG Kang, JP  
Hon LEE Wing-tat  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon WONG Ting-kwong, BBS
- Member absent** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
- Public officers attending** : Environmental Protection Department  
Mr Albert LAM, JP  
Deputy Director of Environmental Protection  
Mr Alfred LEE  
Assistant Director (Waste Management Policy)  
Mr TE Chi-wang  
Senior Administrative Officer (Waste Management Policy Division)  
Mr Patrick LIU  
Senior Environmental Protection Officer (Regional South)

Department of Justice

Miss Shandy LIU  
Senior Government Counsel  
Law Drafting Division

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

**Staff in attendance :** Miss Kitty CHENG  
Assistant Legal Adviser 5

Mrs Mary TANG  
Senior Council Secretary (1)2

---

**I Meeting with the Administration**

- (LC Paper No. CB(1) 1691/07-08(01) -- List of follow-up actions arising from the discussion on 27 May 2008
- LC Paper No. CB(1) 1789/07-08(01) -- Administration's response to CB(1) 1691/07-08(01)
- LC Paper No. CB(1) 1754/07-08(01) -- First batch of draft Committee Stage amendments provided by the Administration
- LC Paper No. CB(1) 1754/07-08(02) -- List of follow-up actions arising from the discussion on 29 May 2008)

Clause-by-clause examination

- (LC Paper No. CB(3) 251/07-08 -- The Bill  
Ref: EP 381/11/03 -- The Legislative Council Brief
- LC Paper No. CB(1) 657/07-08(02) -- Assistant Legal Adviser's letter dated 15 January 2008 to the Administration
- LC Paper No. CB(1) 657/07-08(03) -- Administration's response to CB(1) 657/07-08(02)
- LC Paper No. CB(1) 1032/07-08(01) -- Assistant Legal Adviser's letter dated 3 March 2008 to the Administration
- LC Paper No. CB(1) 1032/07-08(02) -- Administration's response to CB(1) 1032/07-08(01)
- LC Paper No. CB(1) 1032/07-08(03) -- Summary of deputations' views on individual clauses of the Bill

- LC Paper No. CB(1) 1117/07-08(03) -- Assistant Legal Adviser's letter dated 17 March 2008 to the Administration
- LC Paper No. CB(1) 1223/07-08(01) -- Administration's response to LC Paper No. CB(1) 1117/07-08(03)
- LC Paper No. CB(1) 1254/07-08(01) -- Assistant Legal Adviser's letter dated 11 April 2008 to the Administration
- LC Paper No. CB(1) 1254/07-08(02) -- Administration's response to LC Paper No. CB(1) 1254/07-08(01)
- LC Paper No. CB(1) 1489/07-08(04) -- Examples of overseas legislative provisions prepared by the Legal Service Division for reference of the Bills Committee )

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

2. The Administration was requested to -
- (a) consider informing registered retailers in advance of the routine inspections to be carried out by authorized officers;
  - (b) consider including a defence of due diligence under clause 11;
  - (c) consider providing different penalties for wilful and unwilful provision of false information under clause 9 with reference to the Construction Industry Council Ordinance (Cap. 587);
  - (d) review the Chinese rendition of clauses 17(2) and 17(2)(c); and
  - (e) seriously consider members' request for applying the positive vetting procedure to regulations made under clause 27 as well as future amendments to Schedules 1 to 4.
3. Members agreed to continue discussion at the next meeting scheduled for Tuesday, 10 June 2008, from 1:00 pm to 2:30 pm.

## **II Any other business**

4. There being no other business, the meeting ended at 2:30 pm.

**Proceedings of the  
Bills Committee on Product Eco-responsibility Bill  
Meeting on Thursday, 5 June 2008, at 1:00 pm  
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000340	Chairman	Meeting arrangement	
000341 - 000739	Chairman Administration ALA5	<p>Discussion on clause 11 - Offence by body corporate</p> <p>ALA5 's advice that there was no reference to "neglect" for similar offence under section 125 of the Copyright Ordinance (Cap. 528)</p> <p>Administration's agreement to delete reference to "neglect" in clause 11 in the light of members' view that a director or a person concerned in the management should not be held liable for his negligence.</p>	
000740 - 001232	Miss CHAN Yuen-han Chairman Administration Mr Andrew LEUNG	<p>Examination of first batch of Committee Stage amendments (CSAs) (LC Paper No. CB(1)1754/07-08(01))</p> <p>Miss CHAN Yuen-han's enquiry on the power of entry and search under clause 8</p> <p>Administration's response that CSAs would be moved to -</p> <p>(a) require that entry to and search of premises would be subject to a warrant issued by the court; and</p> <p>(b) include a power for authorized officers to carry out routine inspection at non-domestic premises to ensure that the relevant regulatory requirements were complied with</p>	
001233 - 001728	Mr Vincent FANG Chairman Administration	<p>Mr Vincent FANG's view that registered retailers should be informed in advance of the routine inspections to be carried out by authorized officers</p> <p>Administration's explanation that advance notice for routine inspection</p>	The Administration to consider informing registered retailers in advance of the routine inspections to be carried out by

Time Marker	Speaker	Subject(s)	Action Required
		would undermine the effectiveness of such enforcement actions.	authorized officers
001729 - 001613	Mr Andrew LEUNG Chairman	Mr Andrew LEUNG's view that a defence of due diligence should be included in clause 11, in line with the Copyright Ordinance	The Administration to consider including a defence of due diligence under clause 11
001614 - 002402	Mr Vincent FANG Chairman Administration	<p>Discussion on the Administration's response to the list of follow-up actions arising from the discussion at the meeting on 27 May 2008 (LC Paper No. CB(1)1754/07-08(01))</p> <p>Mr Vincent FANG's concern about the lack of time for scrutiny of amendments to Schedules 1, 2 and 3 if these were subject to the negative vetting procedure</p> <p>Administration's explanation that there would be adequate consultation with the Advisory Council on the Environment and the Panel on Environmental Affairs prior to the introduction of amendments to the Schedules</p>	
002403 - 003218	Ms Audrey EU Chairman Administration	<p>Ms Audrey EU's views -</p> <p>(a) since Schedule 4 would be subject to positive vetting, the same should apply to Schedules 1 to 3; and</p> <p>(b) the Administration should explain how "entry and search" and "routine inspection" would be enforced</p> <p>Administration's explanation that routine inspections would involve a less proactive approach, during which authorized officers would usually observe the relevant operations to ensure compliance with regulatory requirements</p>	
003219 -003544	Mr Vincent FANG Mr LEE Wing-tat Chairman	Mr Vincent FANG's view that a more effective way to ensure that no plastic shopping bags (PSBs) were given free of charge by registered retailers was	

Time Marker	Speaker	Subject(s)	Action Required
		through spot checks by authorized officers posing as customers	
003545 - 003752	Mr Andrew LEUNG	Mr Andrew LEUNG's view that some degree of wastage of PSBs should be allowed	
003753 - 004311	Ms Audrey EU Chairman Administration	<p>Ms Audrey EU's request for clarification on the powers of authorized officers to "enter and search", and conduct "routine inspection"</p> <p>Administration's explanation -</p> <p>(a) authorized officers would need to apply for warrants to "enter and search" premises under clause 8; and</p> <p>(b) CSAs would be moved to provide for routine inspections, with reference to the Energy Efficiency (Labelling of Products) Ordinance</p>	
004312 - 004623	Mr Vincent FANG Chairman Administration	<p>Mr Vincent FANG's views that -</p> <p>(a) there should be advance notification in respect of routine inspections; and</p> <p>(b) officers conducting spot checks should pose themselves as normal customers</p>	
004624 - 005021	Chairman Mr Andrew LEUNG Mr Vincent FANG Administration Miss CHAN Yuen-han Mr SIN Chung-kai	<p>Examination of Schedules</p> <p>Members' support that amendments to Schedules 1 to 4, as well as regulations to be made under clause 27 should be subject to the positive vetting procedure</p>	The Administration to seriously consider members' request for applying the positive vetting procedure to regulations made under clause 27 as well as future amendments to Schedules 1 to 4
005022 -010303	Mr Vincent FANG Chairman Administration Miss CHAN Yuen-han	Mr Vincent FANG's concern about the high penalty levels of \$200,000 and imprisonment for 6 months for providing incorrect information under clause 9	

Time Marker	Speaker	Subject(s)	Action Required
		Administration's explanation that a defence of due diligence had been provided under clause 9	
010304 -011239	Mr WONG Ting-kwong Chairman Ms Emily LAU Ms Audrey EU ALA7 Mr Vincent FANG Mr Andrew LEUNG	Discussion on the level of penalty under clause 9 and how it compared with similar offence under other legislation  Ms Audrey EU's view about the need to differentiate between wilful and unwilful provision of false information and the penalties involved  ALA5's reference to the Construction Industry Council Ordinance (Cap. 587), which provided different penalties for wilful and unwilful provision of false information	The Administration to consider providing different penalties for wilful and unwilful provision of false information under clause 9 with reference to the Construction Industry Council Ordinance (Cap. 587)
011240 - 011445	Chairman Ms Emily LAU Mr WONG Ting-kwong Mr SIN Chung-kai	Meeting arrangement	
011446 -012620	Chairman Administration ALA5 Miss CHAN Yuen-han Mr WONG Ting-kwong	Continuation of clause-by-clause examination  Clause 17  Discussion on new clause 17(3) which made it clear that a PSB was provided if it was given free of charge or sold at a price, whether or not it was given or sold together with another product as a single item of goods  ALA5's explanation that the retailer was required to charge an amount of not less than 50 cents for each PSB provided to a customer, if this fell within the meaning of PSB under Schedule 1, was not exempted under Schedule 2 (for example, it was sold at a price of less than \$5)	The Administration to review the Chinese rendition of clauses 17(2) and 17(2)(c)
012621 - 012925	Chairman	Date of next meeting	