

立法會
Legislative Council

LC Paper No. CB(1) 2158/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/BC/4/07/2

Bills Committee on Product Eco-responsibility Bill

**Minutes of the eleventh meeting
held on Tuesday, 10 June 2008, at 1:00 pm
in Conference Room B 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 Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon LEE Wing-tat
Hon Andrew LEUNG Kwan-yuen, SBS, JP
- Members absent** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon WONG Ting-kwong, BBS
- Public officers attending** : **For item II**
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 Confirmation of minutes

(LC Paper No. CB(1) 1753/07-08 -- Minutes of the meeting held on
13 May 2008)

The minutes of the meeting held on 13 May 2008 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1) 1754/07-08(02) -- List of follow-up actions
arising from the discussion on
29 May 2008

LC Paper No. CB(1) 1801/07-08(01) -- Administration's response to
CB(1) 1754/07-08(02)

LC Paper No. CB(1) 1801/07-08(02) -- List of follow-up actions
arising from the discussion on
5 June 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
- LC Paper No. CB(1) 1754/07-08(01) -- First batch of draft Committee Stage amendments provided by the Administration)
2. The Bills Committee deliberated (Index of proceedings attached at **Annex A**).
3. The Administration was requested to -
- (a) conduct an overhaul on the penalty provisions under the Bill to ensure that these could truly reflect the gravity of the offences concerned;
 - (b) review proposed section 1(1)(b) of Schedule 1 to make it clear that the hole on the plastic shopping bags was solely for handling purpose;
 - (c) review the Chinese rendition of term "item" under proposed section 1(c)(i) of Schedule 2;
 - (d) review the threshold of two or more qualified retail outlets in Hong Kong for prescribed retailers under proposed section 1(1)(a) of Schedule 4 in the light of members' view that small and medium enterprises (SMEs) should be excluded from the Bill; and
 - (e) review proposed section 1(2) of Schedule 4 to make it clear that a retail outlet was a qualified outlet if it offered for sale all the goods specified under proposed section 1(2)(a) to (c).

4. Members agreed to continue discussion at the next meeting scheduled for the same day at 4:30 pm.

III Any other business

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

Council Business Division 1
Legislative Council Secretariat
11 July 2008

**Proceedings of the
Bills Committee on Product Eco-responsibility Bill
Meeting on Tuesday, 10 June 2008, at 1:00 pm
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000143	Chairman	Confirmation of minutes of meeting held on 13 May 2008 (LC Paper No. CB(1) 1753/07-08)	
000144 - 000446	Chairman Administration	Administration's agreement to conduct a review of the penalty levels under the Bill in a holistic manner and to propose Committee Stage amendments (CSAs) as appropriate	The Administration to conduct an overhaul on the penalty provisions under the Bill to ensure that these could truly reflect the gravity of the offences concerned
000447 - 001142	Chairman Administration	Continuation of clause-by-clause examination Clause 17 - Interpretation of Part 3 Clause 18 - Levy on plastic shopping bags (PSBs)	
001143 - 002446	Mr Andrew LEUNG Chairman ALA5 Administration Ms Audrey EU Mr Vincent FANG	Clause 19 - Restrictions on provision of PSBs ALA5 pointed out the need to review proposed section 1(2) of Schedule 4 to make it clear that a retail outlet was a qualified outlet if it offered for sale all the goods specified under proposed section 1(2)(a) to (c) Discussion on the types of retail outlets which should be regarded as qualified outlets under Schedule 4 of the Bill	The Administration to review proposed section 1(2) of Schedule 4 to make it clear that a retailer outlet was a qualified outlet if it offered for sale all the goods specified under proposed section 1(2)(a) to (c)
002447 - 002740	Mr Vincent FANG Chairman Administration	Mr Vincent FANG's enquiry on whether the franchisee or the franchiser should be held liable in the event of non-compliance with the relevant provisions in the Bill Administration's explanation - (a) under section 1(3) of Schedule 4, if a retail business was carried on under a franchise agreement, the franchiser was the person who	

Time Marker	Speaker	Subject(s)	Action Required
		<p>carried on the business for the purposes of the meaning of “prescribed retailer”, unless the Director agreed otherwise;</p> <p>(b) the franchiser should therefore be held liable for non-compliance with the relevant provisions in the Bill; and</p> <p>(c) a defence of due diligence was provided under clause 26</p>	
002741 - 003821	<p>Miss CHAN Yuen-han Administration Mr Andrew LEUNG Mr Vincent FANG</p>	<p>Discussion on the liability of the franchiser and the franchisee for non-compliance with relevant provisions in the Bill</p> <p>Mr Andrew LEUNG and Mr Vincent FANG's views that a franchiser should not be held liable for offence committed by the franchisee under the Bill</p> <p>Miss CHAN Yuen-han's views that the franchiser should have provided the necessary training to franchisees, including the need for compliance with the provisions of the Bill</p>	
003822 -004454	<p>Ms Audrey EU Chairman Administration Mr Vincent FANG</p>	<p>Ms Audrey EU's concern that it was unfair that a franchiser should be held liable for offence committed by a franchisee under proposed section 1(3) of Schedule 4 while no penalty was imposed on the franchisee</p>	<p>The Administration to consider holding a franchisee under Schedule 4 liable in the event of non-compliance with the relevant provisions in the Bill</p>
004455 - 005544	<p>Miss CHAN Yuen-han Administration Mr Vincent FANG Chairman</p>	<p>Discussion on the meaning of prescribed retailers under section 1 (1) of Schedule 4</p> <p>Miss CHAN Yuen-han's request for a review of the threshold of two or more qualified retail outlets in Hong Kong for prescribed retailers under proposed section 1(1)(a) of Schedule 4 in order to exclude small and medium enterprises (SMEs) from the Bill</p>	<p>The Administration to review the threshold of two or more qualified retail outlets in Hong Kong for prescribed retailers under proposed section 1(1)(a) of Schedule 4 in the light of members' view that SMEs should be excluded from the Bill</p>

Time Marker	Speaker	Subject(s)	Action Required
005545 - 010132	Ms Audrey EU Chairman Administration	<p>Ms Audrey EU's enquiries on -</p> <p>(a) whether there was a definition on first-aid item; and</p> <p>(b) whether retail outlets of the same owner/partnership but operated under different names would be caught under the meaning of prescribed retailers under section 1(1)(a) of Schedule 4</p> <p>Administration's explanation that -</p> <p>(a) as reliance on the meaning of "first-aid item" in the ordinary language according to customary usage would suffice, it was not necessary to introduce a separate statutory definition for that expression; and</p> <p>(b) retail outlets of the same owner/partnership but operated under different names would fall under the meaning of prescribed retailers under section 1(1)(a) of Schedule 4</p>	
010133 - 010253	Mr Vincent FANG	Mr Vincent FANG's clarification that PSBs which were not covered under the meaning of PSBs under Schedule 1 would be exempted from the Bill	
010254 - 010716	Miss CHAN Yuen-han Chairman Administration Mr Vincent FANG	Discussion on the meaning of prescribed retailers under Schedule 4	
010717 -011046	Mr Vincent FANG Administration Chairman Miss CHAN Yuen-han	Discussion on Schedule 1 regarding the meaning of PSBs	The Administration to review proposed section 1(1)(b) of Schedule 1 to make it clear that the hole on the plastic shopping bags was solely for handling purpose

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011047 -011510	Chairman Administration Miss CHAN Yuen-han	Discussion on Schedule 2 regarding PSBs to which the Bill did not apply Chairman's request to review the Chinese rendition of term "item" under proposed section 1(c)(i) of Schedule 2	The Administration to review the Chinese rendition of term "item" under proposed section 1(c)(i) of Schedule 2
011511 - 011921	Chairman Administration	Discussion on Schedule 3	
011922 -012458	Chairman Administration Ms Audrey EU Mr Vincent FANG	Discussion on Schedule 4 Ms Audrey EU 's view that prescribed retailers should be made aware of their responsibilities under the Bill if they offered for sale in their outlets all three types of goods under proposed section 1(2)(a) to (c) of Schedule 4	
012459 - 013102	Chairman Mr Vincent FANG Ms Audrey EU	Meeting arrangements	