

立法會
Legislative Council

LC Paper No. CB(1) 2173/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/BC/4/07/2

Bills Committee on Product Eco-responsibility Bill

**Minutes of the twelfth meeting
held on Tuesday, 10 June 2008, at 4:30 pm
in Conference Room B of the Legislative Council Building**

- Members present** : Hon CHOY So-yuk, JP (Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
- Members absent** : Hon CHAN Yuen-han, SBS, JP
Hon SIN Chung-kai, SBS, JP
Hon Vincent FANG Kang, JP
Hon LEE Wing-tat
Hon WONG Ting-kwong, BBS
- 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

Clause-by-clause examination

- | | |
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| (LC Paper No. CB(3) 251/07-08
Ref: EP 381/11/03 | -- The Bill |
| LC Paper No. CB(1) 657/07-08(02) | -- The Legislative Council Brief |
| | -- 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)

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

2. The Administration was requested to -

- (a) consider holding a franchisee under Schedule 4 liable in the event of non-compliance with the relevant provisions in the Bill;
- (b) include in the speech to be delivered by the Secretary for the Environment an undertaking for the Administration to consult the affected trades with a view to working out a reasonable percentage of wastage for plastic shopping bags for accounting purpose;
- (c) review clause 25 and consider setting a higher threshold for the Director to serve an assessment notice. For example, an assessment notice could only be served after a registered retailer had been found guilty of an offence under clause 9. To also provide the Irish legislation on which clause 25 was modeled and details of implementation by the Irish Government;
- (d) set out the course of actions which the Administration would take against a registered retailer who failed to submit returns or provided false information; and
- (e) review the Chinese rendition of clause 27 and the proposed Committee Stage amendments to clauses 7(2) and 8.

3. Members agreed to continue discussion at the next meetings scheduled for Thursday, 12 June 2008, at 2:30 pm and 4:30 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 Tuesday, 10 June 2008, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 -001108	Chairman Mrs Selina CHOW Mr Andrew LEUNG Administration	Discussion on the adoption of negative vetting procedure for amendments to Schedule 3 regarding the levy on plastic shopping bags (PSBs) Administration's explanation - (a) there would be adequate prior consultation with Legislative Council and the public regarding any change to the level of the levy on PSBs; and (b) such change would take effect after completion of scrutiny of the relevant amendments under the negative vetting procedure	
001109 -001258	Mr Andrew LEUNG Chairman Administration	Mr Andrew LEUNG's request for the Administration to re-consider adopting the positive vetting procedure for Schedule 3, in line with Schedules 1, 2 and 4	
001259 - 001405	Chairman Administration	Continuation of clause-by-clause examination of the Bill Clause 18 - Levy of PSBs	
001406 -001903	Chairman Administration ALA5	Clause 19 - Restriction on provisions of PSBs by, and registration of, prescribed retailers Members' acceptance of the proposed Committee Stage amendments (CSAs) to include additional grounds for a registered retailer to apply for deregistration	
001904 -002018	Chairman Administration	Clause 20 - Director to maintain register	
002019 -002218	Chairman Administration Mr Andrew LEUNG	Clause 21 - Display of certificate of registration	

Time Marker	Speaker	Subject(s)	Action Required
002219 –002926	Chairman Administration Mrs Selina CHOW	<p>Clause 22 - Duty of registered retailers to charge for PSBs</p> <p>Mrs Selina CHOW's concern about the heavy penalty for non-compliance with clause 22</p> <p>Administration's explanation that it was prepared to review the penalty provisions of the Bill in a holistic manner</p>	
002927 –004154	Chairman Administration Mr Andrew LEUNG Mrs Selina CHOW Ms Miriam LAU	<p>Clause 23 - Returns and payment of levies</p> <p>Mr Andrew LEUNG and Mrs Selina CHOW's view that a reasonable percentage of discrepancy and wastage of PSBs should be allowed in the returns under clause 23</p> <p>Ms Miriam LAU's views -</p> <p>(a) a reasonable percentage of discrepancy and wastage of PSBs should be allowed, given that manufacturers usually sold PSBs by weight rather than by numbers; and</p> <p>(b) there might be circumstances where more than one PSB had to be used, say, for heavier items, which might have torn the PSB concerned</p> <p>Administration's confirmation that it would consult the affected trades with a view to working out a reasonable percentage of wastage for PSBs for accounting purpose</p>	<p>The Administration to include in the speech to be delivered by the Secretary for the Environment an undertaking for the Administration to consult the affected trades with a view to working out a reasonable percentage of wastage for plastic shopping bags for accounting purpose</p>
004155 -004232	Chairman Administration	Clause 24 - Record keeping	
004233 -011003	Administration Chairman Mr Andrew LEUNG Ms Miriam LAU Mrs Selina CHOW ALA5	<p>Clause 25 - Assessment notice</p> <p>Mr Andrew LEUNG's request for a higher threshold for the Director to serve an assessment notice.</p> <p>Ms Miriam LAU and Mrs Selina CHOW's views -</p>	<p>The Administration to –</p> <p>(a) review clause 25 and consider setting a higher threshold for the Director to serve an assessment</p>

Time Marker	Speaker	Subject(s)	Action Required
		<p>(a) an assessment notice could only be served after a registered retailer had been found guilty of an offence under clause 9 for providing false information, and not at the discretion of the Director if "reasonably believed" that the returns were false;</p> <p>(b) the penalties under clause 25 were too harsh and were, in effect, duplicated; and</p> <p>(c) legislation on which clause 25 was modeled</p> <p>ALA5's pointed the doubts on whether concern the demand for payment of levies under an assessment notice under clause 25(4) before prosecution was brought in court would prejudice the position of the retailer</p> <p>Administration's explanation -</p> <p>(a) there was a need to ensure the timely repayment of demanded levies or it would be unfair to other law-abiding registered retailers; and</p> <p>(b) clause 25 was modeled on an Irish statute</p>	<p>notice;</p> <p>(b) provide the Irish legislation on which clause 25 was modeled and details of implementation by the Irish Government; and</p> <p>(c) set out the course of actions which it would take against a registered retailer who failed to submit returns or provided false information</p>
011004 -011038	Chairman Administration	Clause 26 - Defence of due diligence	
011039 -011213	Chairman Administration	Clause 27 - Secretary may make regulations in respect of Part 3	
011214 -012935	Chairman Administration Ms Miriam LAU	Examination of the first batch of CSAs proposed by the Administration (LC Paper No. CB(1) 1754/07-08(01))	
012936 -014157	Chairman Administration Ms Miriam LAU	Examination of the second batch of proposed CSAs (tabled at meeting and circulated under LC Paper No. CB(1) 1856/07-08(01))	The Administration to review the Chinese rendition of the proposed CSAs to clauses 7(2) and 8
014158 -014519	Chairman Administration	Chairman's recap on the outstanding CSAs to be provided by the Administration in the light of members' concerns	

Time Marker	Speaker	Subject(s)	Action Required
014520 -015003	Chairman Ms Emily LAU Ms Miriam LAU ALA5	Meeting arrangement	

Council Business Division 1
Legislative Council Secretariat
15 July 2008