

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2174/07-08  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/4/07/2

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

**Minutes of the thirteenth meeting  
held on Thursday, 12 June 2008, at 2:30 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 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 Andrew LEUNG Kwan-yuen, SBS, JP  
Hon WONG Ting-kwong, BBS
- Member absent** : Hon LEE Wing-tat
- 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

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**I Meeting with the Administration**

(LC Paper No. CB(1) 1857/07-08(01) -- List of follow-up actions  
arising from the discussion on  
10 June 2008 at 1:00 pm

LC Paper No. CB(1) 1857/07-08(02) -- List of follow-up actions  
arising from the discussion on  
10 June 2008 at 4:30 pm)

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

2. The Administration was requested to -

- (a) consider specifying in clause 9(3) that a person committed an offence only if he omitted any material particular from any record without reasonable excuse, and reviewing the penalty levels for clauses 9(1) and 9(3) to reflect the different gravity of the offences with reference to section 80 of the Inland Revenue Ordinance. To also consider deleting clause 9(4);
- (b) consider whether separate penalty should be provided for clauses 10(a) and 10(b) to reflect the different severity of the offences;
- (c) review the Chinese rendition of clause 17(2)(c);
- (d) consider specifying in clause 21(3) that a person should not display a certificate of registration at a place that was not a registered retail outlet to which the certificate related and collect a levy for each plastic shopping bag provided to a customer;

- (e) consider including “reasonable excuse” as a defence for offences under clause 26; and
- (f) consider applying the positive vetting procedure to future amendments to Schedule 3 of the Bill

**II Any other business**

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

Council Business Division 1  
Legislative Council Secretariat  
15 July 2008

**Proceedings of the  
Bills Committee on Product Eco-responsibility Bill  
Meeting on Thursday, 12 June 2008, at 2:30 pm  
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 003708	Chairman Administration Ms Miriam LAU Mr Vincent FANG Mr SIN Chung-kai ALA5	<p>Examination of the third batch of Committee Stage amendments (CSAs) (tabled at meeting and circulated under the Annex to LC Paper No. CB(1) 1878/07-08(05))</p> <p>Clause 9 - Providing false information</p> <p>Members' view that the penalty levels for clauses 9(1) (for provision of false information) and 9(3) (for omission of material particulars) should be reviewed to reflect the different gravity of the offences</p> <p>Administration's explanation -</p> <p>(a) the penalties for contravention of clause 9 had been reduced to a fine at level 6 and without imprisonment;</p> <p>(b) a reasonable level of penalty was required to deter against the provision of false information; and</p> <p>(c) reference was made to Energy Efficiency (Labelling of Products) Ordinance when setting the penalty levels</p> <p>Members' view that a direct comparison of the penalty levels of the Bill with that of the Energy Efficiency (Labelling of Products) Ordinance or the Irish Waste Management Act was not appropriate in view of the different consequence of the offences</p> <p>ALA5's explanation on the Irish Waste Management Act that it was a piece of framework legislation for waste management schemes. The Act expressly provided that the penalties to be imposed by the court for contravention of the Act would take into account the risks and extent of environmental pollution</p>	

Time Marker	Speaker	Subject(s)	Action Required
003709 - 004027	Chairman Administration	Clause 10 - Obstructing authorized officers Chairman's concern about the heavy fine at level 5 for offences under clause 10  Administration's explanation that the penalty level was set with reference to other environmental legislation	
004028 - 004619	Mr WONG Ting kwong Chairman Administration Mr SIN Chung-kai	Discussion on the drafting of clause 10  Administration's explanation that "any requirement" referred to in clause 10(b) would be confined to requirements properly made by authorized officers according to the provisions under the Bill	
004620 - 005234	Ms Miriam LAU Chairman Administration Mr SIN Chung-kai	Discussion on the drafting of clause 9  Ms Miriam LAU's request to combine clauses 9(1) and (3), and to confine the offences under clause 9 to deliberate acts	
005235 - 005847	Chairman Administration	Examination of CSAs to clauses 11 to 20A	The Administration to review the Chinese rendition of clause 17(2)(c)
005848 - 010205	Ms Miriam LAU	Clause 20A - Secretary may amend Schedules  Ms Miriam LAU's request that -  (a) there should be adequate prior consultation with Legislative Council (LegCo) and the public on any changes to the levy on plastic shopping bags (PSBs); and  (b) any such change would take effect after completion of scrutiny of the relevant subsidiary legislation under the negative vetting procedure	
010206 - 011137	Mrs Selina CHOW Administration Chairman Mr SIN Chung-kai Ms Miriam LAU	Members' request for amendments to Schedule 3 to be subject to the positive vetting procedure, in line with Schedules 1, 2 and 4  Administration's explanation that -  (a) there would be adequate prior	The Administration to consider applying the positive vetting procedure to future amendments to Schedule 3 of the Bill

Time Marker	Speaker	Subject(s)	Action Required
		<p>consultation with LegCo and the public on any changes to the level of the levy on PSBs under Schedule 3;</p> <p>(b) the negative vetting procedure would already allow sufficient time for LegCo to consider the drafting of Schedule 3, which set out the level of the levy on PSBs only; and</p> <p>(c) it would include in the speech to be delivered by the Secretary for the Environment at the resumption of Second Reading debate on the Bill that any change in the level of levy would take effect after completion of scrutiny of the relevant amendment under the negative vetting procedure</p>	
011138 - 011505	Chairman ALA5 Mr SIN Chung-kai	ALA5's reference to section 80(2) of the Inland Revenue Ordinance (Cap. 112), which provided that it would be an offence if incorrect information was provided without reasonable excuse	
011506 - 011745	Ms Miriam LAU Chairman	Ms Miriam LAU's concern about the need to impose such a high level of penalty for offences under clause 9	
011746 - 012243	Mr SIN Chung-kai Chairman Ms Miriam LAU	Mr SIN Chung-kai's request to specify in clause 9(3) that a person committed an offence only if he omitted any material particular from any record without reasonable excuse	The Administration to consider specifying in clause 9(3) that a person committed an offence only if he omitted any material particular from any record without reasonable excuse
012244 - 012314	Mr SIN Chung-kai Chairman	Mr SIN Chung-kai's view that separate penalties should be provided for clauses 10(a) and 10(b) to reflect the different severity of the offences	The Administration to consider whether separate penalty should be provided for clauses 10(a) and 10(b) to reflect the different severity of the offences

Time Marker	Speaker	Subject(s)	Action Required
012315 - 012506	Mrs Selina CHOW Administration Ms Miriam LAU Chairman Mr Vincent FANG	<p>Discussion on offences under clause 9</p> <p>Chairman's request to delete the word "incorrect" from Clause 9(1)</p> <p>Members' request for a review of the penalties for offences under clauses 9(1) and 9(3) to reflect the different gravity of these offences</p> <p>Ms Miriam LAU's views that if the phrase "without reasonable excuse" was added to clause 9(3), then the defence of due diligence under clause 9(4) would no longer be required</p> <p>Mr Vincent FANG's request to lower the level of penalty for provision of false information under clause 9 to level 3, in line with the Inland Revenue Ordinance</p>	<p>The Administration to review the penalty levels for clauses 9(1) and 9(3) to reflect the different gravity of the offences with reference to section 80 of the Inland Revenue Ordinance. To also consider deleting clause 9(4)</p>
012507 - 013730	Chairman Administration Mrs Selina CHOW Ms Miriam LAU	<p>Discussion on CSA to clause 21 - Display of certificate of registration</p> <p>Members' concerns -</p> <p>(a) the present drafting of clause 21(3) would hold a retailer liable for displaying certificate of registration in a wrong place; and</p> <p>(b) there was a need to specify in clause 21(3) that a person should not display a certificate of registration at a place that was not a registered retail outlet to which the certificate related, and collect a levy for each PSB provided to a customer</p>	<p>The Administration to consider specifying in clause 21(3) that a person should not display a certificate of registration at a place that was not a registered retail outlet to which the certificate related and collect a levy for each PSB provided to a customer</p>
013731 - 014531	Ms Miriam LAU Chairman Administration Mrs Selina CHOW	<p>Discussion on defence of due diligence under clause 26</p>	
014532 - 014719	Mr Vincent FANG Chairman Administration	<p>Mr Vincent FANG's concern about the circumvention of the levy by customers through purchase of PSBs which were sold as a pre-packaged pack at a price of \$5 or more</p>	

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
014720 - 014854	Chairman Administration	Discussion on CSAs to clauses 23 to 27  Administration's confirmation that it would consult the affected trades when formulating regulations on the levy scheme	
014855 - 015103	Ms Miriam LAU Administration Chairman	Discussion on the defence of due diligence under clause 26  Ms Miriam LAU and Mrs Selina CHOW's request to replace "due diligence" with "reasonable excuse" as the defence under clause 26	The Administration to consider including "reasonable excuse" as a defence for offences under clause 26
015104 - 015909	Mrs Selina CHOW Ms Miriam LAU Administration Chairman	Meeting arrangement	