

Product Eco-responsibility Bill

The Administration's Response to Views and Questions Raised at the Bills Committee Meeting on 29 April 2008

Speech at the Resumption of the Second Reading Debate

The Secretary for the Environment (SEN) would state in his speech at the resumption of the Second Reading debate that all new statutory producer responsibility schemes (PRS's) in respect of other products will be implemented through amendment Bills to the principal Ordinance, if enacted. SEN would also set out in his speech the initiatives on the recovery and recycling of used plastic shopping bags.

Timeframe for Implementing Other PRS's

2. At the meeting of the Bills Committee on 29 April 2008, SEN stated that as in the case of plastic shopping bags, the Administration would develop statutory PRS's for other products in consultation with the relevant trades. The Administration would also consult the Legislative Council, as well as the public, before introducing new statutory PRS's. It would not be practicable, however, to commit to an implementation timeframe for PRS's for individual products at this stage, as changes in waste management and disposal practices might necessitate corresponding changes in the priority for introducing individual PRS's or even the introduction of PRS's for other products not currently envisaged. Having said that, clause 2 of the Product Eco-responsibility Bill has clearly underlined the Administration's commitment to introducing PRS's beyond the one on plastic shopping bags. The relevant work will be carried out in parallel with other waste management initiatives, including the introduction of voluntary PRS's with the relevant trades.

Overseas Legislation and Concept of "Producer Responsibility Schemes"

3. As set out in LC Paper No. CB(1) 657/07-08(03), the Administration has made reference to the following overseas legislation in formulating the framework approach of the Bill:

Country/ Region	Framework Legislation	Product-specific Regulations
South Australia, Australia	Environment Protection Act 1993 ¹ (see provisions on PRS for beverage containers in sections 65 to 73)	◆ Environment Protection (Beverage Container) Regulations 1995 ²
Manitoba, Canada	Waste Reduction and Prevention Act ³	◆ Tire Stewardship Regulation ⁴ ◆ Used Oil, Oil Filters and Containers Stewardship Regulation ⁵
Ireland	Waste Management Act, 1996 ⁶ as amended by Waste Management (Amendment) Act, 2001 ⁷ (see provisions relating to the environmental levy on plastic bags in section 72)	◆ Waste Management (Environmental Levy) (Plastic Bag) Regulations 2001 ⁸
United Kingdom	Environment Act 1995 ⁹ (see provisions on producer responsibility in sections	◆ The Producer Responsibility Obligations (Packaging

¹<http://www.legislation.sa.gov.au/LZ/C/A/ENVIRONMENT%20PROTECTION%20ACT%201993/CURRENT/1993.76.UN.PDF>

²[http://www.legislation.sa.gov.au/LZ/C/R/ENVIRONMENT%20PROTECTION%20\(BEVERAGE%20CONTAINER\)%20REGULATIONS%201995/CURRENT/1995.41.UN.PDF](http://www.legislation.sa.gov.au/LZ/C/R/ENVIRONMENT%20PROTECTION%20(BEVERAGE%20CONTAINER)%20REGULATIONS%201995/CURRENT/1995.41.UN.PDF)

³<http://web2.gov.mb.ca/laws/statutes/ccsm/w040e.php>

⁴<http://web2.gov.mb.ca/laws/reg/pdf/w040-033.95.pdf>

⁵<http://web2.gov.mb.ca/laws/reg/pdf/w040-086.97.pdf>

⁶<http://www.irishstatutebook.ie/1996/en/act/pub/0010/index.html>

⁷<http://www.irishstatutebook.ie/2001/en/act/pub/0036/index.html>

⁸<http://www.irishstatutebook.ie/2001/en/si/0605.html>

⁹http://www.opsi.gov.uk/acts/acts1995/plain/ukpga_19950025_en

	93 to 95)	Waste) Regulations 2007 ¹⁰
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4. PRS is a term commonly used in the arena of environmental protection and refers to a waste management approach that requires manufacturers, importers, wholesalers, retailers, consumers or any other parties to share the responsibility for the management of certain products throughout their lifecycle to minimize the impact on the environment.

5. Different jurisdictions have also used the term “producer responsibility” in their legislation. For example, certain European Union Directives mention “producer responsibility” in the preambles to highlight the objectives of the relevant Directives without defining or referring to that term in the ensuing substantive articles¹¹. Likewise, clause 2(1)(b) of the Bill spells out the meaning of the term “producer responsibility schemes”, and clause 2(2) further provides examples of PRS’s such as product take-back schemes. Clause 2 serves only as an express statement of the Bill’s objectives. It is *not* an empowering section in relation to the operative provisions of the Bill.

6. On the other hand, the Administration notes that the Environment Act 1995 of the United Kingdom also adopts the term “producer responsibility”, but it is used in the context of empowering the Secretary of State to impose producer responsibility obligations. The Environment Act 1995 of the United Kingdom defines “producer responsibility obligation” as “*the steps which are required to be taken by relevant persons of the classes or descriptions to which the regulations in question apply in order to secure attainment of the targets specified or described in the regulations*”. By comparison, “producer responsibility schemes” is *not* used in the operative provisions of the Bill. Furthermore, as opposed to the United Kingdom legislation, the Bill does *not* contain any provision that will empower SEN to introduce new PRS’s to impose obligations on different persons in respect of different products through regulations. As stated in paper CB(1) 1391/07-08(02), legislative proposals concerning other products will have to be introduced by amendments to the principal Ordinance, if enacted.

¹⁰http://www.opsi.gov.uk/si/si2007/uksi_20070871_en_1

¹¹ See the following EU Directives –

(a) Directive 2006/66/EC of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:266:0001:01:EN:HTML>); and

(b) Directive 2002/96/EC of 27 January 2003 on waste electrical and electronic equipment (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0096:EN:HTML>).

7. Having regard to overseas experience, the Administration considers a definition for “producer responsibility schemes” uncalled for in the context of the Bill.

Delineation of Responsibility

8. The delineation of responsibility of different parties in respect of different products will be set out in the statutory provisions on each PRS in the principal Ordinance, if enacted, to be introduced in future after consultation with the relevant trades and the Legislative Council. In the case of the PRS on plastic shopping bags, the responsibilities of registered retailers are set out in Part 3 of the Bill. The delineation of responsibility for other PRS’s will be stipulated in new provisions (as Part 4 onwards) to be added by amendment bills to the principal Ordinance (if enacted).

Environmental Protection Department
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