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Paper for the House Committee meeting on 16 June 2017

Report of the Subcommittee on Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 (Commencement) Notice 2017 and Product Eco-Responsibility (Regulated Electrical Equipment) Regulation

Purpose

This paper reports on the deliberations of the Subcommittee on Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 (Commencement) Notice 2017 and Product Eco-Responsibility (Regulated Electrical Equipment) Regulation ("the Subcommittee") in relation to the Product Eco-Responsibility (Regulated Electrical Equipment) Regulation ("REE Regulation").¹

Background

Producer responsibility schemes

2. In the Policy Framework for the Management of Municipal Solid Waste (2005-2014) published in December 2005, the Administration proposed to introduce producer responsibility schemes ("PRs") in line with the "polluter pays" principle for minimizing the environmental impact of certain products including electrical and electronic equipment. The Product Eco-responsibility Ordinance (Cap. 603) ("PERO") was enacted in July 2008 to provide for the general provisions for the introduction of PRs and the regulatory framework in

¹ The Subcommittee reported its deliberations on the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 (Commencement) Notice 2017 to the House Committee on 2 June 2017.

respect of individual schemes for specific types of products, whereas the detailed operational matters are prescribed by subsidiary legislation.

3. In 2010, the Administration conducted a public consultation on the introduction of a PRS for waste electrical and electronic equipment ("WEEE") ("WPRS" in short) and the community feedback was generally supportive. In February 2015, the Administration obtained approval of the Finance Committee of the Legislative Council ("LegCo") for a funding proposal for the development of a WEEE treatment and recycling facility ("WEEETRF") as an essential infrastructure for the launch of WPRS.²

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016

4. The Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 ("Amendment Ordinance") was enacted in March 2016 to provide for the regulatory framework for implementation of WPRS with the following main features:³

- (a) *Scope of regulated products:* Eight classes of products, namely air conditioner, refrigerators, washing machines, televisions, computers, printers, scanners and monitors, are defined as regulated electrical equipment ("REE") and subject to WPRS;
- (b) *Proper treatment of REE:* The licensing control under section 16 of Waste Disposal Ordinance (Cap. 354) ("WDO") is extended to the disposal (including storage, treatment, reprocessing and recycling) of e-waste.⁴ Disposal of e-waste at designated waste disposal facilities, including landfills, is prohibited so as to divert

² The approved funding proposal is for the development of WEEETRF at an estimated capital cost of \$550 million and operating expenses of \$200 million per annum. The facility was expected to commence operation in the second half of 2017.

³ The Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 was introduced to LegCo in March 2015. The Bill sought to amend mainly PERO and the Waste Disposal Ordinance (Cap. 354). A bills committee was formed to study the Bill.

⁴ "E-waste" is defined under section 12 of the Amendment Ordinance to mean any electrical equipment or electronic equipment that, judging by its appearance, is an item set out in column 2 of the new Schedule 6 to PERO and has been abandoned.

e-waste from the waste stream to recycling facilities;⁵

- (c) *Import and export of regulated e-waste*: Permit control under WDO for the import and export of waste is applied to e-waste to prevent e-waste traded through Hong Kong from increasing the local waste burden or causing environmental hazards in other jurisdictions;
- (d) *Provision of removal services by sellers*: A seller⁶ of REE must have a removal service plan endorsed by the Director of Environmental Protection ("DEP") under which for every piece of REE distributed to a consumer, the consumer is entitled to have the seller arranging the removal of an old item of REE of the same class from a premises designated by the consumer for proper disposal free of charge; and
- (e) *Charging of recycling levies*: manufacturers and importers who distribute REE to the local market are required to register as "registered suppliers". A registered supplier distributing any REE is required to provide recycling labels for the REE,⁷ submit returns and audit reports to DEP, and pay recycling levies.⁸

Product Eco-responsibility (Regulated Electrical Equipment) Regulation

5. The Secretary for the Environment ("SEN") made the REE Regulation on 25 April 2017 and gave notice on 26 April 2017 for moving a motion for

⁵ The Amendment Ordinance amended the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354L) for banning disposal of e-waste in facilities specified in Schedule 1 to Cap. 354L.

⁶ "Seller" is defined to mean a person who carries on a business of distributing REE to consumers, but does not include a person who only provides service for transporting the equipment that does not belong to the person for another person.

⁷ The purpose of the recycling label is to facilitate identification of REE which is covered by WPRS with the recycling levy paid or to be paid by the relevant registered supplier.

⁸ The recycling levy is payable if (a) the piece of REE is manufactured in Hong Kong by the supplier in the course of the supplier's business; or is, in the course of the supplier's business, imported into Hong Kong by the supplier for distribution, but is not imported during the course of a service provided by the supplier for transporting articles into Hong Kong for another person; and (b) the supplier distributes the piece of REE, or uses the piece of REE for the first time.

LegCo to approve the REE Regulation at the Council meeting of 24 May 2017. The REE Regulation seeks to provide for the necessary operational details under PERO, including:

- (a) application for registration of suppliers and the determination of the application;
- (b) provision of recycling labels for each class of REE by registered suppliers and sellers;
- (c) recycling levy for each class of REE;
- (d) payment of recycling levies by registered suppliers;
- (e) submission of returns by registered suppliers;
- (f) information to be contained in the returns;
- (g) records and documents to be kept by registered suppliers;
- (h) submission of audit reports by registered suppliers;
- (i) prescribed wording for receipts;
- (j) requirements of the removal service plan; and
- (k) removal service arranged by sellers.

The REE Regulation will come into operation on a day to be appointed by SEN by notice published in the Gazette.

The Subcommittee

6. The House Committee decided at its meeting on 12 May 2017 to task the Subcommittee with scrutinizing the REE Regulation. At the request of the House Committee, SEN has withdrawn the notice to move the proposed motion mentioned in paragraph 5 above to allow time for the Subcommittee to study the REE Regulation in detail.

7. The membership list of the Subcommittee is in **Appendix I**. Under the chairmanship of Ir Dr Hon LO Wai-kwok, the Subcommittee has held four

meetings to discuss the REE Regulation with the Administration,⁹ including one meeting to receive views from deputations. A list of the organizations which have provided views to the Subcommittee is in **Appendix II**.

Deliberations of the Subcommittee

8. Members supported in principle the implementation of WPRS in Hong Kong. In examining the REE Regulation, the Subcommittee has focused on issues including provision of recycling labels and removal services for REE, submission of returns and payment of recycling levies by registered suppliers, and cancellation of registration of registered suppliers. The deliberations of the Subcommittee are summarized in the ensuing paragraphs.

Provision of recycling labels and removal service for regulated electrical equipment

Provision of recycling labels

9. Under section 35(1) of PERO, if a registered supplier distributes to a person any REE, the supplier must provide to the person an appropriate recycling label. Section 36(1) of PERO provides that registered suppliers may apply to DEP for recycling labels free of charge for dissemination down the supply chain. The Administration has proposed in section 9 of the REE Regulation that an appropriate recycling label must be provided by the registered supplier to the person referred to in section 35(1) of PERO no later than the taking of actual possession of the piece of REE by such person. Likewise, if a seller distributes any REE to a consumer, the seller provides to the consumer an appropriate recycling label for the REE no later than the taking of actual possession of the REE by the consumer (section 27 of the REE Regulation). According to sections 9(3) and 27(3) of the REE Regulation, it is not a requirement that the recycling labels must be provided by affixing them onto REE. There will be four classes of labels, depending on the amount of recycling levy payable per item of REE. Recycling levies payable by registered suppliers will be calculated based on the number of REE distributed as set out in their returns to DEP.

10. Section 42(2) of PERO stipulates that if a seller distributes an item of REE to a consumer and the consumer requests the seller to remove another equipment of the same class (e.g. a new television for an old television), then the

⁹ The Subcommittee discussed the REE Regulation at the meetings held on 16 May, 23 May, 2 June and 9 June 2017.

seller must make the necessary arrangements, free of charge, in accordance with the seller's removal service plan as endorsed by DEP. REE sellers can engage suitable collector (including but not limited to the WEEETRF operator) as the default collector specified in the removal service plan. Sections 29 to 41 of the REE Regulation provide for the detailed arrangements for the removal service.

11. Hon Charles Peter MOK notes that some suppliers of computers (i.e. a class of REE) raised concerns about the compliance burden arising from the provision of recycling labels to the retailers as their production lines outside Hong Kong cannot differentiate between products shipped to Hong Kong or other places. The suppliers may have difficulty in tracking where the labels are shipped to and assigning the labels to REE manually. He also points out that computers are different from other types of REE in that the consumers usually take away the computers by themselves after purchase, instead of requesting for delivery services, and the means of providing recycling labels to consumers of computers warrants different considerations. Besides, given the size of the recycling labels, affixation of such labels onto REE may affect the aesthetics of product design, in particular where certain computer products are generally smaller than other types of REE. Hon MOK therefore takes the view that registered suppliers and sellers should be given flexibility as to how the recycling labels should be provided. He has also suggested the Administration consider allowing registered suppliers to, based on the design and security features stipulated by the Government, print the recycling labels by themselves. Alternatively, the Administration may make available spare recycling labels to registered suppliers as buffer to facilitate the dissemination of the labels down the supply chain.

12. Hon SHIU Ka-fai opines that requiring recycling labels to be affixed onto REE will create additional compliance burden on the registered suppliers and sellers. Instead of focusing on how the recycling labels should be provided to the consumers, some members including Hon Charles Peter MOK, Hon SHIU Ka-fai and Dr Hon Junius HO consider it more important for the Administration to step up publicity to enhance the public's awareness of WPRS, and their vigilance of possible unscrupulous trade practices.

13. Referring to the existing arrangement in respect of energy labels under the Mandatory Energy Efficiency Labelling Scheme ("MEELS"), Hon HUI Chi-fung considers that recycling labels should be affixed onto REE to enhance consumers' awareness of which electrical/electronic products are REE, and that recycling levies have been paid in respect of the REE before they decide to make the purchase. The affixed labels would also help alert/remind consumers to make use of REE removal services when they wish to abandon the REE. In his view, if the registered suppliers are given a choice, it is likely that

they will not choose to affix the labels onto REE so as to save administrative costs. Hon CHU Hoi-dick opines that as part of their product eco-responsibilities, it should be reasonable to require registered suppliers/sellers to affix recycling labels onto REE.

14. The Chairman points out that consumers can affix the labels onto REE by themselves after the purchase. That said, he considers that the current drafting of sections 9(3) and 27(3) of the REE Regulation that "To avoid doubt, the label is not required to be provided by affixing it onto the regulated electrical equipment" appears to discourage registered suppliers or sellers from affixing the labels onto REE. He takes the view that registered suppliers and sellers should be encouraged to affix the labels onto REE unless there are practical difficulties to do so.

15. The Administration has advised that sections 9(3) and 27(3) of the REE Regulation are meant to provide the necessary flexibility to the trades in the provision of recycling labels so as to cater for their different modes of operation.¹⁰ There are genuine difficulties for some registered suppliers and sellers to affix recycling labels onto REE having regard to their individual circumstances such as the location of the production lines, and delivery of REE directly from the warehouses (and not the retail outlets) to the consumers. As regards the suggestion of allowing registered suppliers to print recycling labels, the Administration has advised that this arrangement is inconsistent with the relevant provisions of the Amendment Ordinance which stipulates that the recycling labels are to be provided to registered suppliers by DEP. It will also give rise to issues such as verification of the labels' authenticity. The Administration considers it appropriate to adopt a flexible approach in requiring how the recycling labels should be provided by sellers, and would continue to discuss the operational details with the trades in this regard.

16. The Administration further points out that:

- (a) unlike energy labels which are meant to promote public awareness of energy saving and the choice of energy efficient products,

¹⁰ The Administration has taken into account the recommendations of a Business Impact Assessment study conducted in 2010-2011 and developed WPRS on the basis that the recycling labels will not have to be affixed by registered suppliers or sellers by the time of distribution of REE. According to the study, label affixation will potentially require dedicated product line and incur additional production cost. The label affixation process may also cause time delay and extra labour cost owing to checking of the goods status and unwrapping of packaging. The study recommended that consumers should be allowed to affix the labels by themselves.

recycling labels are intended to inform consumers that the relevant REE are distributed under WPRS with the recycling levy paid or to be paid by the relevant registered supplier. The recycling labels are not intended to inform or remind the consumers of the availability of the removal service;

- (b) Schedule 2 to the REE Regulation prescribes the wording contained in the receipts for purchase of REE which serves to inform consumers that the REE in question is subject to recycling levy;
- (c) in accordance with section 42(4) of PERO, a seller must notify consumers in writing of the seller's obligation concerning the removal service and the relevant removal terms before entering into the relevant contract of distribution;
- (d) whether the recycling label is affixed onto an item of REE, or loss of the recycling label, will not deprive a consumer of the benefit of utilizing the removal service to remove an old item of REE as long as the request for the service is made within three days after the consumer has taken possession of a new item of REE of the same class;¹¹
- (e) the Administration will produce publicity materials to enhance the public's awareness of WPRS including the provision of recycling labels and REE removal service; and
- (f) the Administration will take the necessary actions to enforce the relevant statutory requirements upon implementation of WPRS.

17. Notwithstanding the above explanation, the Subcommittee has requested the Administration to review sections 9(3), 27(3) and other relevant provisions of the REE Regulation in the light of the various views and suggestions raised by members about the provision of recycling labels. The Administration reiterated that requiring affixation of a recycling label onto an item of REE prior to its distribution will create unnecessary burden on the trades. However, to avoid giving the impression that the Administration discourages the affixation of recycling label onto the REE before it is distributed, the Administration has

¹¹ Having regard to further deliberations of the Subcommittee, the Administration has subsequently proposed an amendment on the lead time for the consumer to decide on the need of a removal service. Please refer to paragraph 23 for details of the proposed amendment.

proposed amendments to sections 9(3) and 27(3) to the effect that the registered supplier and the seller may provide the recycling label to consumers by affixing it to REE or otherwise.

18. Hon HUI Chi-fung maintains the view that recycling labels should be affixed to REE for reasons stated in paragraph 13 above. He has indicated that he may move the amendments set out in **Appendix III** to (a) amend section 9(3) of the REE Regulation to the effect of requiring registered suppliers to affix recycling labels onto the REE distributed by them, and (b) delete section 27(3) of the REE Regulation which concerns how the recycling labels should be provided by sellers to the consumers. Hon HUI Chi-fung is also of the view that if a registered supplier is not required to affix an appropriate recycling label on the piece of REE which it distributes, it would be very unlikely for the seller to find that such recycling label has not been affixed and hence the seller may attract liability by providing a piece of REE on which there is no appropriate label affixed to its consumer. Hon HUI Chi-fung and other members have also enquired about the requirements in respect of the provision of energy labels.

19. To facilitate consideration of Hon HUI Chi-fung's proposed amendments, the Legal Adviser to the Subcommittee has pointed out that the requirements imposed on sellers of prescribed products under MEELS in respect of energy labels provided under the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598) are essentially different from those imposed on sellers of REE in respect of recycling labels provided under PERO.¹² Besides, the requirements imposed by the REE Regulation on registered suppliers and sellers of REE must be consistent with those laid down in PERO. Further, under section 35 of PERO, a registered supplier and a seller of REE each have their respective duty to provide an appropriate recycling label for a piece of distributed REE. In such case, it warrants serious consideration on whether a seller of REE may conveniently claim to have reasonably relied on the registered supplier that the latter must have complied with the requirement under section 35(1) of PERO and, hence, the seller can fully exonerate itself from the liability under section 35(2)(a) of PERO if the seller fails to provide an appropriate recycling label for the REE that it distributes. The Legal Adviser to the Subcommittee has also noted that the amendments proposed by Hon HUI Chi-fung does not expressly impose a duty on the seller to check or ensure that the requirements imposed on a registered supplier of REE under section 35(1) of PERO has been complied with before the seller fulfills its liability under section 35(2)(a) of PERO. As

¹² For instance, it is required under section 5 of Cap. 598 that a person who is not a manufacturer or importer of a prescribed product shall not supply the prescribed product unless the person *has ensured*, among other things, that the product bears an energy label that is attached or affixed to the prescribed product. In the case of WPRS, the seller is required under section 35(2) of Cap. 603 to *provide* the recycling labels.

such, the Legal Adviser invites Hon HUI Chi-fung to clarify whether his proposed amendments intend to impose such duty on a seller of REE. In addition, by proposing to delete section 27(3) of the REE Regulation, it may not be clear as to how a seller of REE should provide a recycling label in accordance with section 35(2)(a) of PERO.

20. Hon HUI Chi-fung considers that sellers may discuss with registered suppliers with a view to making mutually agreed arrangements to fulfill their respective legal obligations in the provision of recycling labels for REE. He has indicated that he will review his proposed amendments in the light of the comments raised at the meeting, and consider moving the amendments in his name.

Timeframe for provision of removal service for regulated electrical equipment

21. Given that the request for the removal service for an old REE item can be made within three days after the consumer has taken actual possession of a new REE item of the same class (section 40 of the REE Regulation), instead of "on the spot" at the time of purchase, some members have relayed the trades' concern that the seller may not be able to deliver the new REE item to the consumer and remove the old REE in one go. This will incur additional administrative and logistical costs on the seller while causing inconvenience to the consumer in having to keep/store the old REE item in the interim pending removal. There are also concerns as to whether the WEEETRF operator can provide the REE removal service within a short time after the consumer has made the request. Hon SHIU Ka-fai has suggested the Administration to shorten the lead time for a consumer to decide on the need of a removal service. Hon HUI Chi-fung, however, considers that shortening the lead time may deprive the consumer of reasonable time to make the said decision.

22. The Administration has advised that the WEEETRF operator must, under its contract with the Government, provide the removal service at a time as agreed with the REE seller and confirmed in writing, with the requisite condition that there is an advance notice of no less than three working days before the conduct of the removal service.¹³ Notwithstanding the contractual provisions between the WEEETRF operator and the Government, a REE seller may discuss its own removal terms with the WEEETRF operator to reflect the seller's intended level of customer service. However, if the REE seller's intended level of customer service exceeds the scope of service as required

¹³ Please refer to paragraphs 2 and 3 of the Administration's written response to issues arising from the Subcommittee meeting on 16 May 2017 (LC Paper No. CB(1)1059/16-17(01) issued on 2 June 2017) for details of the contractual requirements on the WEEETRF operator.

under the contract, the Government will not pay the WEEETRF operator any extra cost incurred, and the WEEETRF operator must not collect any charge from the consumer for any old REE item collected through the statutory removal service.

23. After considering members' views and suggestions, the Administration submits that the provision of a long lead time for a consumer to consider the removal service may not serve practical purposes because such a decision will usually be made by a consumer on the spot when making the purchase of a REE item. However, some members consider that there can be cases where such a decision cannot be made on the spot. Having regard to members' views, the Administration has proposed amendments to the effect that the said request should be made by the consumer within three days after the consumer has entered into a distribution transaction of REE with the seller. The Administration has also explained that the term "distribution transaction" is to be construed in the light of the definition "distribute" under section 31 of PERO.

24. Hon HUI Chi-fung opines that the proposed amendment will undermine protection of consumers' right to make use of REE removal service. He has indicated that he may consider moving amendments (apart from those set out in Appendix III) in his name to enable a consumer to decide on the need of a removal service during the period after the distribution transaction has been entered into and up to the time when the new REE is delivered to the consumer.

Specified collectors to provide the removal service

25. Under section 31 of the REE Regulation, a seller may specify in the removal service plan up to three collectors, one of them must be specified as the "default collector" which undertakes to provide territory-wide removal service for every particular class of REE distributed by the seller. The Subcommittee notes that there are suggestions from sellers of REE of allowing them to (a) specify up to five (instead of three) collectors in the removal service plan, and (b) provide removal service in case none of the specified collectors is able or willing to provide the service. At the request of the Subcommittee, the Administration has proposed amendments to the REE Regulation to incorporate these two suggestions.

Submission of returns and payment of recycling levies

26. Sections 10 to 15 and 22 to 26 of the REE Regulation prescribe the detailed requirements on the submission of returns and payment of recycling levies by a registered supplier. The Subcommittee has enquired how the Administration will ensure that registered suppliers will pay the required amount of recycling levies.

27. The Administration has advised that under section 38(4) of PERO, a registered supplier must keep records and documents relating to a return during the five years after the year in which the return is submitted. Section 38(7) of PERO stipulates that a registered supplier will commit an offence and be liable to a fine at level 5 if the person contravenes section 38(4) of PERO. The Administration has proposed in section 15 of the REE Regulation that such records and documents should include all records, invoices, receipts, delivery notes, inventory records or any other documents that contain sufficient details to enable DEP to readily verify the information reported in the returns. Besides, under section 39(1) of PERO, a registered supplier must submit an audit report to DEP every year in respect of the returns that the supplier has submitted. The audit report must be prepared by a certified public accountant (practising) as defined by section 2(1) of the Professional Accountants Ordinance (Cap. 50), who must not be an employee of the registered supplier.

Cancellation of registration of suppliers of regulated electrical equipment

28. The Subcommittee notes that the new sections 33 and 34 of PERO provide for the registration of a supplier as a registered supplier and the cancellation of such registration respectively, whereas the REE Regulation only provides for the operational details relating to the application for registration under section 33 but not for the cancellation of registration referred to in section 34. The Subcommittee has sought clarification on how a cancellation of registration under section 34 will be dealt with.

29. The Administration has advised that under section 34 of PERO, if DEP is satisfied that a registered supplier is no longer a supplier, DEP must cancel the registration of the supplier. This may happen when a registered supplier writes to the Environmental Protection Department ("EPD") informing his/her intention to wind down his/her business as a supplier, or when EPD becomes aware of a potential case during the day-to-day administration of WPRS, e.g. cessation of submission of periodic returns by a registered supplier. EPD will take necessary follow-up actions in respect of each case including seeking supplementary information or verifying the state of business concerned and informing the supplier of the cancellation.

Drafting issues

30. The Legal Adviser to the Subcommittee has invited the Administration to clarify whether all of the undertakings referred to in section 31(1)(b) of the REE Regulation, which are required to be made by the collector/recycler specified in a REE seller's removal service plan, must be made in the specified form and, if the answer is in the affirmative, consider changing the relevant conjunction from "or" to "and" for the avoidance of doubt. The Administration clarified that all such undertakings must be made in the specified form and considered that the section, as drafted, conveys such information clearly. As such, the Administration considers that no amendment to the section is required. The Subcommittee has noted the Administration's response and raised no objection in this regard.

31. At the suggestion of the Legal Adviser to the Subcommittee, the Subcommittee has requested and the Administration agreed to include textual amendments to the REE Regulation to:

- (a) suitably amend the term "無一人" in the Chinese rendition of section 31(1)(a)(iii) to fully align with its English rendition "none of the collectors"; and
- (b) delete "the" before "3 days" in the English rendition of section 40(b).

Proposed amendments

32. Apart from the amendments elaborated in paragraphs 17, 23, 25 and 31 above, the Administration has proposed other amendments to the REE Regulation which are consequential or textual in nature. A full set of the Administration's proposed amendments is shown in revision mode in **Appendix IV**. The Administration intends to move the resolution on the REE Regulation, as revised, at the Council meeting of 5 July 2017.

33. The Subcommittee will not move any amendment to the REE Regulation. The Subcommittee has noted that Hon HUI Chi-fung may consider moving amendments to the REE Regulation as explained in paragraphs 13, 18, 20 and 23.

Advice Sought

34. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 1
Legislative Council Secretariat
15 June 2017

**Subcommittee on Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016
(Commencement) Notice 2017 and
Product Eco-Responsibility (Regulated Electrical Equipment) Regulation**

Membership list

Chairman Ir Dr Hon LO Wai-kwok, SBS, MH, JP

Members Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Charles Peter MOK, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon KWOK Wai-keung
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon SHIU Ka-fai
Hon Tanya CHAN
Hon HUI Chi-fung
Dr Hon YIU Chung-yim

(Total: 14 members)

Clerk Ms Angel SHEK

Legal Adviser Miss Evelyn LEE

**Subcommittee on Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016
(Commencement) Notice 2017 and
Product Eco-Responsibility (Regulated Electrical Equipment) Regulation**

List of deputations who have given views to the Subcommittee

1. ALBA Integrated Waste Solutions (Hong Kong)
2. Alpha Appliances Limited
- *3. Apple Inc.
4. Chung's Logistics Company Limited
- *5. Consumer Council
6. Dr CHUNG Shan-shan, Hong Kong Baptist University
7. EcoSage Limited
8. Ecycle Tech Limited
9. Environmental Association Limited
10. Hong Kong and Kowloon Electrical Appliances Merchants Association Limited
- *11. Hong Kong General Association Of Re-Cycling Business
12. Hong Kong Recycling Chamber of Commerce
- *13. Hong Kong Retail Management Association
14. Hung Tat Recycle Resources Limited
- *15. Information Technology Industry Council
16. Liberal Party
17. Miss Elsie CHANG
18. Miss HUI Ching-lam
19. Mr CHAU Gee-leung
20. Mr CHIU Yun-wai
21. Mr LEE Po-hong
22. Mr MAN Chun-kit
- *23. Mr NG Kong-fung
- *24. The Chamber of H.K. Computer Industry
25. Qing Yuan Logistics Limited
26. Top Pro Consulting Limited
27. Wai Mei Dat Group
28. Wing Fat Recycling Metals Company Limited

* views given by written submission only

Appendix III

Amendments to Product Eco-responsibility (Regulated Electrical Equipment) Regulation proposed by Hon HUI Chi-fung

Division 3 --- Obligations and Related Matters

Subdivision 1 --- Recycling Labels

9. Provision of recycling labels

- (1) This section applies if a registered supplier who distributes any regulated electrical equipment to a person provides a recycling label to the person for the equipment under section 35(1) of the Ordinance.
- (2) The label must be provided not later than the taking of actual possession of the regulated electrical equipment by the person.
- (3) To avoid doubt, the label is ~~not~~ required to be provided by affixing it onto the regulated electrical equipment.

Part 3

Matters Related to Sellers

Division 1 --- Recycling Labels and Receipts

27. Provision of recycling labels

- (1) This section applies if a seller provides a recycling label to a consumer for any regulated electrical equipment under section 35(2)(a) of the Ordinance.
- (2) The label must be provided not later than the taking of actual possession of the regulated electrical equipment by the consumer.
- (3) ~~To avoid doubt, the label is not required to be provided by affixing it onto the regulated electrical equipment.~~

Product Eco-responsibility (Regulated Electrical Equipment) Regulation

(Made by the Secretary for the Environment under section 44 of the Product Eco-responsibility Ordinance (Cap. 603) after consulting the Advisory Council on the Environment and subject to the approval of the Legislative Council)

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for the Environment by notice published in the Gazette.

2. Interpretation

(1) In this Regulation—

cancel (撤銷) means cancel under section 34 of the Ordinance;

cancellation date (撤銷日期), in relation to a registration, means the date on which the registration is cancelled;

discrepancy list (差異清單) means a document prepared under section 20(2);

ending date (結束日期), in relation to a short-term registration, means the date specified for the registration under section 6(1)(e);

endorsement application (批註申請) means an application under section 30(1);

first cut-off date (首個截數日期), in relation to an ordinary registration, means the date specified for the registration under section 6(1)(d);

ordinary registration (一般登記) means the ordinary registration mentioned in section 4(1)(a);

payable (須繳付) means payable under section 37(1) of the Ordinance;

recycling levy (循環再造徵費) means the levy prescribed under section 22(1);

registration (登記) means a registration under section 33 of the Ordinance;

registration date (登記日期), in relation to a registration, means the date specified for the registration under section 6(1)(b);

removal service (除舊服務) means a removal service under section 42(2) of the Ordinance;

reporting period (申報期) has the meaning given by section 12;

short-term registration (短期登記) means the short-term registration mentioned in section 4(1)(b);

specified form (指明表格) means a form specified under section 42.

(2) In this Regulation, a reference to a class of recycling labels is a reference to a class of recycling labels as specified by the Director for the purposes of section 36 of the Ordinance.

(3) In this Regulation, an expression specified below has the same meaning as it has in section 31 of the Ordinance—

consumer (消費者);

distribute (分發);

recycling label (循環再造標籤);

registered supplier (登記供應商);

removal service plan (除舊服務方案);

return (申報);

seller (銷售商);

supplier (供應商);

use (使用).

Part 2

Matters Related to Registered Suppliers

Division 1—Registration

3. Application of Division 1

This Division applies to an application for registration under section 33 of the Ordinance.

4. Application for registration

- (1) A supplier, or a person who proposes to be a supplier, may apply to the Director in the specified form for either—
 - (a) an ordinary registration; or
 - (b) a short-term registration.
- (2) The applicant may, by giving the Director notice in writing, withdraw the application at any time before it is determined.
- (3) If, before the application is withdrawn or determined, a change in the information provided to the Director for the application occurs, the applicant must, as soon as reasonably practicable after the change occurs, give the Director notice of the change in writing.
- (4) The Director may, by giving the applicant notice in writing, require the applicant to provide further information and documents for the application.

5. Requirements for application

- (1) For both an ordinary registration and a short-term registration, the requirements for an application for the purposes of section 33(b) of the Ordinance are that—

- (a) the application must be made in the specified form;
 - (b) the applicant must comply with section 4(3), and any notice given under section 4(4);
 - (c) the applicant must be a supplier, or will become a supplier, according to the information provided for the application;
 - (d) the information so provided must be correct and must not be misleading; and
 - (e) if the applicant has already had an ordinary registration approved—the registration must have been cancelled.
- (2) In addition to the requirements in subsection (1), for a short-term registration (*intended short-term registration*), the requirements for an application for the purposes of section 33(b) of the Ordinance are that the following criteria must be met—
- (a) should the application be approved, the applicant's business of distributing regulated electrical equipment under the intended short-term registration—
 - (i) would be likely to operate for not more than 30 days; and
 - (ii) would be likely to give rise to the liability to pay a recycling levy not exceeding \$20,000 under section 37(1) of the Ordinance; and
 - (b) if the applicant has already had one or more than one recent short-term registration approved—should the application for the intended short-term registration be approved, the applicant's business of distributing regulated electrical equipment under all of the latest short-term registrations would be likely to give rise to an

- aggregate liability to pay recycling levies not exceeding \$20,000 under section 37(1) of the Ordinance.
- (3) For the purposes of this section, a short-term registration is a recent short-term registration if its ending date or cancellation date falls within 12 months before the date of the application for the intended short-term registration.
 - (4) In subsection (2)(b)—
latest short-term registration (最近短期登記) means—
 - (a) a recent short-term registration; or
 - (b) the intended short-term registration.

6. Application approved

- (1) If an application is approved, the Director must issue a certificate of registration to the applicant and specify in the certificate—
 - (a) a registration number assigned by the Director for the registration;
 - (b) the date on which the registration becomes effective;
 - (c) an annual audit date for the preparation of audit reports under section 39 of the Ordinance;
 - (d) for an ordinary registration—the first cut-off date for the preparation of returns; and
 - (e) for a short-term registration—the date on which the registration ceases to have effect.
- (2) The first cut-off date for an ordinary registration must fall on 31 March, 30 June, 30 September or 31 December.
- (3) The ending date for a short-term registration must fall within 30 days after the registration date.

7. Application refused

- (1) If an application is refused, the Director must—
 - (a) give the applicant notice in writing of the decision; and
 - (b) include in the notice a statement setting out the reasons for the decision.
- (2) If the Director intends to refuse the application, the Director must—
 - (a) give the applicant notice in writing of the intention and the reasons for the intention; and
 - (b) give the applicant an opportunity to make representations.

Division 2—Change of Address after Registration

8. Notice of change of address

- (1) If the address of a registered supplier provided to the Director for an application made under section 4(1) has changed, the supplier must give the Director notice of the change in the specified form within 30 days after the date on which the change occurs.
- (2) A registered supplier who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.

Division 3—Obligations and Related Matters

Subdivision 1—Recycling Labels

9. Provision of recycling labels

- (1) This section applies if a registered supplier who distributes any regulated electrical equipment to a person provides a

- recycling label to the person for the equipment under section 35(1) of the Ordinance.
- (2) The label must be provided not later than the taking of actual possession of the regulated electrical equipment by the person.
- (3) ~~To avoid doubt, The registered supplier may provide~~ the label ~~is not required to be provided~~ by affixing it ~~onto~~ to the regulated electrical equipment or otherwise.

Subdivision 2—Returns

10. Form of returns

A return must be submitted to the Director in the specified form.

11. Coverage of returns

- (1) A return submitted in respect of an ordinary registration must be submitted—
 - (a) in the case of the first return—for the period beginning on the registration date and ending on the first cut-off date; or
 - (b) in the case of a further return—for each quarter ending on 31 March, 30 June, 30 September or 31 December.
- (2) A return submitted in respect of a short-term registration must be submitted for the period beginning on the registration date and ending on the ending date.
- (3) However—
 - (a) if the registration is cancelled during the period mentioned in subsection (1)(a), the reference to “first cut-off date” in that subsection is to be construed as a reference to “cancellation date”;

- (b) if the registration is cancelled during a quarter mentioned in subsection (1)(b), that quarter is deemed to end on the cancellation date; and
- (c) if the registration is cancelled during the period mentioned in subsection (2), the reference to “ending date” in that subsection is to be construed as a reference to “cancellation date”.

12. Meaning of *reporting period*

In this Regulation—

reporting period (申報期)—

- (a) in relation to a return submitted in accordance with section 11(1)(a), means the period mentioned in that section, as modified by section 11(3)(a) if applicable;
- (b) in relation to a return submitted in accordance with section 11(1)(b), means the quarter mentioned in that section, as modified by section 11(3)(b) if applicable; or
- (c) in relation to a return submitted in accordance with section 11(2), means the period mentioned in that section, as modified by section 11(3)(c) if applicable.

13. Timing of returns

Subject to section 46(1), a return must be submitted within 28 days after the last day of each reporting period.

14. Content of returns

- (1) A return must contain, in relation to each class of recycling labels—
 - (a) the number of recycling labels possessed by the registered supplier when the reporting period began;

- (b) the number of recycling labels obtained by the registered supplier under section 36(1) of the Ordinance during the reporting period;
 - (c) the number of recycling labels otherwise obtained by the registered supplier during the reporting period;
 - (d) the number of recycling labels provided by the registered supplier under section 35(1) of the Ordinance during the reporting period;
 - (e) the number of recycling labels otherwise transferred by the registered supplier during the reporting period;
 - (f) the number of recycling labels damaged or lost during the reporting period; and
 - (g) the number of recycling labels left unused when the reporting period ended.
- (2) A return must also contain, in relation to each class of regulated electrical equipment—
 - (a) the number of such equipment that was distributed by the registered supplier in Hong Kong during the reporting period, with a breakdown of—
 - (i) the number of such equipment that meets the description of section 37(1)(a)(i) of the Ordinance; and
 - (ii) the number of such equipment that meets the description of section 37(1)(a)(ii) of the Ordinance; and
 - (b) the number of such equipment that was used for the first time by the registered supplier in Hong Kong during the reporting period, with a breakdown of—

- (i) the number of such equipment that meets the description of section 37(1)(a)(i) of the Ordinance; and
- (ii) the number of such equipment that meets the description of section 37(1)(a)(ii) of the Ordinance.

Subdivision 3—Records and Documents Relating to Returns

15. Record keeping

- (1) This section applies to the keeping of records and documents under section 38(4) of the Ordinance.
- (2) The registered supplier must keep records, invoices, receipts, delivery notes, inventory records or any other documents that contain sufficient details to enable the Director to readily verify the matters mentioned in subsection (3) in relation to a return.
- (3) The matters are—
 - (a) in relation to each class of recycling labels—
 - (i) the number of recycling labels possessed by the registered supplier when the reporting period began;
 - (ii) the number of recycling labels obtained by the registered supplier under section 36(1) of the Ordinance during the reporting period;
 - (iii) the number of recycling labels otherwise obtained by the registered supplier during the reporting period;
 - (iv) the number of recycling labels provided by the registered supplier under section 35(1) of the Ordinance during the reporting period;

- (v) the number of recycling labels otherwise transferred by the registered supplier during the reporting period;
- (vi) the number of recycling labels damaged or lost during the reporting period; and
- (vii) the number of recycling labels left unused when the reporting period ended; and
- (b) in relation to each class of regulated electrical equipment—
 - (i) the number of such equipment that was distributed by the registered supplier in Hong Kong during the reporting period;
 - (ii) the number of such equipment that was used for the first time by the registered supplier in Hong Kong during the reporting period;
 - (iii) the number of such equipment that was exported by the registered supplier out of Hong Kong during the reporting period; and
 - (iv) among the equipment mentioned in each of subparagraphs (i), (ii) and (iii)—
 - (A) the number of such equipment that meets the description of section 37(1)(a)(i) of the Ordinance;
 - (B) the number of such equipment that meets the description of section 37(1)(a)(ii) of the Ordinance; and
 - (C) the number of such equipment that does not meet the description of section 37(1)(a)(i), or section 37(1)(a)(ii), of the Ordinance.

Subdivision 4—Audit Reports

16. Application of Subdivision 4

This Subdivision applies to the submission of audit reports under section 39(1) of the Ordinance.

17. Interpretation

(1) In this Subdivision—

annual audit date (周年審計日), in relation to a registration, means the date specified for the registration under section 6(1)(c);

auditor (核數師), in relation to an audit report, means the person who prepares the report under section 39(2) of the Ordinance.

(2) In this Subdivision, a reference to an audit year is, subject to subsection (3), a reference to the period of 12 months ending on an annual audit date.

(3) If the registration is cancelled during the period of 12 months ending on a particular annual audit date, a reference to an audit year is, in relation to that annual audit date, a reference to—

- (a) if that annual audit date is the first annual audit date for the registration—the period beginning on the registration date and ending on the cancellation date; or
- (b) if that annual audit date is not the first annual audit date for the registration—the period beginning on the date immediately after the last preceding annual audit date, and ending on the cancellation date.

18. Coverage of audit reports

An audit report must cover a return if the reporting period of the return falls within the relevant audit year.

19. Timing of audit reports

Subject to section 46(1), an audit report must be submitted within 3 months after the last day of each audit year.

20. Content of audit reports

(1) The auditor must state in the audit report whether, in the opinion of the auditor and in relation to any return covered by the report, the following statements are true—

- (a) the registered supplier had kept records and documents in accordance with section 38(4) of the Ordinance, and in accordance with section 15;
- (b) the return had been prepared in accordance with those records and documents; and
- (c) the quantities of regulated electrical equipment reported in the return had been reported in accordance with the Ordinance.

(2) If the auditor identifies any discrepancy between a return covered by the audit report and the records and documents kept for the return as mentioned in subsection (1)(a) in relation to any quantity of regulated electrical equipment, the auditor must set out the discrepancy in a document in the specified form.

(3) If a discrepancy list has been prepared for an audit report in accordance with subsection (2), the registered supplier must, in submitting the report, attach a copy of the discrepancy list to the report.

21. Exemption from submission of audit reports

(1) A registered supplier may apply to the Director in writing for exemption from submitting an audit report for a particular audit year.

- (2) Subject to section 46(1), the application must be made within 1 month after the last day of the relevant audit year.
- (3) The Director must approve the application if—
 - (a) for an ordinary registration—
 - (i) the reporting periods falling within the relevant audit year cover less than 12 months in total; and
 - (ii) the Director is satisfied that the aggregate recycling levies payable for the reporting periods do not exceed \$20,000; or
 - (b) for a short-term registration—the Director is satisfied that the recycling levy payable for the reporting period does not exceed \$20,000.

Subdivision 5—Recycling Levies

22. Prescribed amount

- (1) For the purposes of Division 3 of Part 4 of the Ordinance, an amount of recycling levy per item of regulated electrical equipment for each class of such equipment is set out in Schedule 1.
- (2) A term specified in column 2 of Schedule 1 has the same meaning as it has in Schedule 6 to the Ordinance.

23. Payment on payment notice

- (1) This section applies to the payment of recycling levy under section 38(3) of the Ordinance.
- (2) The payment must be made within 30 days after the day on which the payment notice was served on the registered supplier under section 38(2)(b) of the Ordinance.
- (3) The payment must be made in accordance with the payment instructions contained in the payment notice.

24. Payment on assessment notice

- (1) This section applies to the payment under section 40(9) of the Ordinance of an amount of recycling levy demanded under an assessment notice.
- (2) The payment must be made—
 - (a) if the assessment notice has not been replaced under section 40(5) of the Ordinance—within 30 days after the day on which the notice was served on the relevant person under section 40(4) of the Ordinance; or
 - (b) if the assessment notice has been replaced with another assessment notice under section 40(5) of the Ordinance—within 30 days after the day on which the other notice was served on the relevant person under that section.
- (3) The payment must be made in accordance with the payment instructions contained in the assessment notice.
- (4) In subsection (2)—
relevant person (有關人士) means the relevant person mentioned in section 40 of the Ordinance.

25. Adjustment of payable amount with reference to discrepancy list

- (1) This section applies if a registered supplier has submitted an audit report under section 39(1) of the Ordinance with a discrepancy list attached in relation to a return (**reported return**) in accordance with section 20(3).
- (2) In determining the amount of recycling levy payable for the first subsequent return (if any), the Director may, with reference to the discrepancy list mentioned in subsection (1), adjust the amount so as to offset any amount of recycling levy that has been or will be overpaid or unpaid by the registered

supplier for the reported return as a result of a discrepancy set out on the discrepancy list.

(3) In subsection (2)—

first subsequent return (其後首份申報) means the first return submitted by the registered supplier after the supplier has submitted the audit report as mentioned in subsection (1).

26. Refund of overpaid amount

- (1) This section applies if a person has paid an amount of money to the Director for compliance with section 37(1) of the Ordinance.
- (2) The person may lodge a written claim with the Director for refund of any overpaid recycling levy paid by the person.
- (3) The claim must be accompanied by evidence of the claimant's entitlement to the refund.
- (4) For the purposes of subsection (3), an audit report submitted under section 39(1) of the Ordinance with a discrepancy list attached in accordance with section 20(3) is evidence of a discrepancy set out on the discrepancy list unless the contrary is proved.
- (5) On receiving the claim, the Director must refund any overpaid recycling levy to the claimant if the Director is satisfied that—
 - (a) the claimant is entitled to the refund; and
 - (b) the overpaid recycling levy is not recoverable by the claimant by the operation of section 25.
- (6) In this section—

overpaid recycling levy (超額徵費) means an amount of money that was paid by a person as mentioned in subsection (1) in excess of the amount that was payable by the person.

Part 3

Matters Related to Sellers

Division 1—Recycling Labels and Receipts

27. Provision of recycling labels

- (1) This section applies if a seller provides a recycling label to a consumer for any regulated electrical equipment under section 35(2)(a) of the Ordinance.
- (2) The label must be provided not later than the taking of actual possession of the regulated electrical equipment by the consumer.
- (3) ~~To avoid doubt, The seller may provide the label is not required to be provided by affixing it onto to the regulated electrical equipment~~ or otherwise.

28. Provision of receipts

- (1) This section applies if a seller provides a receipt to a consumer for any regulated electrical equipment under section 35(2)(b) of the Ordinance.
- (2) The receipt—
 - (a) may be provided in either paper or electronic form; and
 - (b) must contain the wording, in both the English and the Chinese languages, set out in Schedule 2.
- (3) The receipt must be provided not later than—
 - (a) the making of any payment for the regulated electrical equipment by the consumer; or
 - (b) the taking of actual possession of the equipment by the consumer,

whichever is the later.

Division 2—~~Arrangement for~~ Removal Services

Subdivision 1—Endorsement of Removal Service Plan

29. Application of Subdivision 1

This Subdivision applies to the endorsement of a plan as a removal service plan under section 41(1) of the Ordinance.

30. Application for endorsement of plan

- (1) A seller, or a person who proposes to be a seller, may apply to the Director in the specified form for the endorsement.
- (2) The applicant may, by giving the Director notice in writing, withdraw the application at any time before it is determined.
- (3) If, before the application is withdrawn or determined, a change in the information provided to the Director for the application occurs, the applicant must, as soon as reasonably practicable after the change occurs, give the Director notice of the change in writing.
- (4) The Director may, by giving the applicant notice in writing, require the applicant to provide further information and documents for the application.

31. Requirements under section 41(3)(c) of Ordinance

- (1) The following requirements are the requirements under section 41(3)(c) of the Ordinance—
 - (a) the plan to be endorsed—
 - (i) must not specify more than ~~53~~ collectors; ~~and~~

- (ii) must specify 1 collector who meets the requirement specified in subsection (2) as a default collector; and
 - (iii) must indicate in the specified form whether the seller will provide a removal service in case none of the collectors specified in the plan is able and willing to provide the service; and
 - (b) the undertaking under section 41(3)(a) or (b) of the Ordinance must be made in the specified form.
- (2) The requirement mentioned in subsection (1)(a)(ii) is that, as part of the plan, the collector undertakes to the seller in the specified form—
- (a) to provide removal services in respect of every particular class of regulated electrical equipment distributed by the applicant; and
 - (b) to provide the services on any premises in Hong Kong.
- (3) Subsections (1)(b) and (2) do not prevent parties to the undertakings from incorporating any mutually agreed terms and conditions into the undertakings.
- (4) In subsection (1)(a)(ii)—

default collector (預定收集者) means the first collector whom the seller is to approach for arranging for a removal service on a consumer's request.

32. Other grounds of refusal

- (1) The other grounds on which the Director may refuse to endorse a plan as mentioned in section 41(2) of the Ordinance are specified in subsection (2).
- (2) The Director may refuse to endorse a plan if the Director is satisfied that—

- (a) the endorsement application has not been made in the specified form;
- (b) the applicant has not complied with section 30(3), or any notice given under section 30(4);
- (c) the applicant is not a seller, or will not become a seller, according to the information provided for the application;
- (d) the information so provided is incorrect or misleading;
- (e) the plan is impracticable; ~~or~~
- (f) the applicant has already had a plan endorsed; or
- (g) the applicant will not be able to cause the electrical equipment or electronic equipment removed by the applicant in accordance with the plan to be properly treated, reprocessed or recycled.

33. Application approved

If an endorsement application is approved, the Director must give the applicant notice in writing of—

- (a) the decision; and
- (b) the date of endorsement.

34. Application refused

- (1) If an endorsement application is refused, the Director must—
 - (a) give the applicant notice in writing of the decision; and
 - (b) include in the notice a statement setting out the reasons for the decision.
- (2) If the Director intends to refuse the application, the Director must—
 - (a) give the applicant notice in writing of the intention and the reasons for the intention; and

- (b) give the applicant an opportunity to make representations.

Subdivision 2—Change to Removal Service Plan

35. Application for change to removal service plan

- (1) No change may be made to a removal service plan of a seller unless the seller applies to the Director in the specified form for approval to do so.
- (2) Subject to section 38, the application must be made at least 30 days before the day on which the change is proposed to take effect.
- (3) On receiving the application, the Director must give the applicant notice in writing of the date of receipt of application.
- (4) The applicant may, by giving the Director notice in writing, withdraw the application at any time—
 - (a) before the expiry of 30 days after the date of receipt of application; or
 - (b) before a notice is given under section 37(4), whichever is the earlier.
- (5) The Director may, by giving the applicant notice in writing, require the applicant to provide further information and documents for the application.
- (6) Section 71(1)(b) of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply to the period of 30 days under subsection (4)(a).
- (7) In subsection (1)—
seller (銷售商) includes a person who proposes to be a seller.

36. Changing information regarded as making fresh application

- (1) If, before an application made under section 35(1) (*original application*) is withdrawn or determined, a change in the information provided to the Director for the original application occurs, the applicant must, as soon as reasonably practicable after the change occurs, give the Director notice of the change in writing.
- (2) If a notice is given under subsection (1)—
 - (a) the applicant is taken to make a fresh application under section 35(1); and
 - (b) the original application is taken to be withdrawn.

37. Determination of application

- (1) An application under section 35(1) is taken to be approved by the Director on the expiry of 30 days after the date of receipt of application unless the application has been approved or refused before the expiry.
- (2) The Director must refuse the application if the Director is satisfied that the removal service plan would no longer meet a certain requirement specified in section 41(3) of the Ordinance should the proposed change be incorporated into the plan.
- (3) The Director may also refuse the application if the Director is satisfied that—
 - (a) the application has not been made in the specified form;
 - (b) the applicant has not complied with section 35(2) or 36(1), or any notice given under section 35(5);
 - (c) the applicant is not a seller, or will not become a seller, according to the information provided for the application;

- (d) the information so provided is incorrect or misleading; or
 - (e) the removal service plan would become impracticable should the proposed change be incorporated into the plan.
- (4) If the application is refused, the Director must—
- (a) give the applicant notice in writing of the decision within 30 days after the date of receipt of application; and
 - (b) include in the notice a statement setting out the reasons for the decision.
- (5) Section 71(1)(b) of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply to the period of 30 days under subsection (4)(a).

38. Exemption from section 35(2)

- (1) This section applies if a seller makes a change application.
- (2) The seller may apply to the Director for exemption from section 35(2).
- (3) An exemption application must be made in the specified form in conjunction with the change application.
- (4) The Director may approve the exemption application if the Director is satisfied that it is reasonable to do so in the circumstances of the case.
- (5) In this section—

change application (更改申請) means an application under section 35(1);

exemption application (豁免申請) means an application under subsection (2);

seller (銷售商) includes a person who proposes to be a seller.

Subdivision 3—Requests for Removal Services

39. Interpretation

In this Subdivision—

distributed equipment (獲分發電器), in relation to a request for a removal service made by a consumer as mentioned in paragraph (b) of section 42(2) of the Ordinance, means the item of regulated electrical equipment distributed to the consumer as mentioned in paragraph (a) of that section;

distribution transaction (分發交易) means a transaction in which distributed equipment is distributed by a seller.

40. Requests for removal services

~~(1)~~ A request for a removal service must be made—

- (a) in the manner specified by the seller; and
- (b) ~~before the expiry of within~~ 3 days after ~~the consumer takes actual possession of the distributed equipment the consumer enters into the distribution transaction with the seller.~~

~~(2) Subsection (1)(b) does not prevent the consumer from making the request before taking actual possession of the distributed equipment.~~

41. Record keeping

- (1) The seller must, for the prescribed period, keep a record of each request for a removal service.
- (2) Subject to subsection (3), the record must contain the following information—
 - (a) information that enables the identification of the distribution transaction ~~in which the distributed~~

~~equipment was distributed~~ (for example, a transaction number);

- (b) the times at which the request was made and received;
- (c) the manners in which the request was made and received;
- (d) proof that the actual ~~remover~~~~collector~~ had been informed of the address of the premises from which the pre-existing equipment was to be removed;
- (e) the date of collection of the pre-existing equipment as agreed by the actual ~~remover~~~~collector~~;
- (f) if the actual ~~remover~~~~collector~~ was ~~not a collector other than~~ the default collector—the default collector’s written confirmation that the default collector was unable or unwilling to provide the requested service, and the reasons;

(g) if the actual remover was the seller—a written confirmation by each collector specified in the removal service plan that the collector was unable or unwilling to provide the requested service, and the reasons.

- (3) If any information mentioned in subsection (2) is unavailable, that subsection is taken to be complied with if the record contains an indication of that fact.
- (4) A person who, without reasonable excuse, contravenes this section commits an offence and is liable on conviction to a fine at level 2.
- (5) In this section—

actual ~~remover~~~~collector~~ (實際收集除舊者) means—

(a) the collector who actually provides ~~the~~ a removal service; or

(b) if a seller provides the service—the seller;

default collector (預定收集者) has the meaning given by section 31(4);

pre-existing equipment (現有電器), in relation to a request for a removal service, means the item of electrical equipment or electronic equipment to be removed on that request;

prescribed period (訂明期間) means the period—

- (a) beginning at the time when the distribution transaction is made~~consumer takes actual possession of the distributed equipment~~; and
- (b) ending on the expiry of 1 year after the day on which the distribution transaction is made~~consumer takes actual possession of the distributed equipment~~.

Part 4

Miscellaneous

Division 1—Specified Forms

42. Director may specify forms

The Director may specify any forms required for the purposes of the Ordinance.

43. General requirements

- (1) For the purposes of section 36(1) of the Ordinance, and this Regulation, a specified form may require that—
 - (a) it be completed in a specified way;
 - (b) specified information or documents be included in or attached to it; and
 - (c) it be submitted in a specified manner.
- (2) If a certain requirement under subsection (1) is not complied with for making an application under section 36(1) of the Ordinance or under this Regulation, the application is to be treated as not made in the specified form.
- (3) If a certain requirement under subsection (1) is not complied with for submitting a return under this Regulation, the return is to be treated as not submitted in the specified form.
- (4) The Director must make copies of a specified form available—
 - (a) during office hours at the office of the Director; or
 - (b) through any other means that the Director considers appropriate.

44. Electronic records as specified forms

- (1) If the Director specifies an electronic record as a specified form, the requirement for a signature in the form is satisfied by a password assigned or approved under subsection (2).
- (2) The Director may, for enabling a person to use an electronic record as a specified form, from time to time assign or approve any sequence or combination of letters, characters, numbers or symbols as the person's password.

Division 2—Other Matters

45. Right of appeal to Appeal Board

- (1) The following decisions are appealable matters for the purposes of section 13(2) of the Ordinance—
 - (a) refusal of an application made under section 33 of the Ordinance;
 - (b) cancellation of a registration;
 - (c) refusal of an application under section 36(2) of the Ordinance;
 - (d) refusal to grant an exemption applied for under section 21(1);
 - (e) service of a payment notice under section 38(2)(b) of the Ordinance;
 - (f) service of an assessment notice under section 40(4) or (5) of the Ordinance;
 - (g) refusal of a claim lodged under section 26(2);
 - (h) refusal to endorse a plan under section 41(2) of the Ordinance, or under section 32(2);
 - (i) refusal of an application under section 37(2) or (3);

- (j) refusal to grant an exemption applied for under section 38(2).
- (2) If an appeal is made under section 13 of the Ordinance against a decision specified in subsection (1), the appeal does not affect the operation of the decision pending the determination of the appeal unless the Director decides otherwise.

46. Extension of periods

- (1) If the last day on which a specified act may be done falls on an excluded day, the act is considered as done if it is done on the next following day, not being an excluded day.

- (2) In subsection (1)—

excluded day (豁除日) means—

- (a) a Saturday;
- (b) a general holiday; or
- (c) a gale warning day, or black rainstorm warning day, as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);

specified act (指明作為) means—

- (a) the submission of a return in accordance with section 13;
- (b) the submission of an audit report in accordance with section 19; or
- (c) the making of an application in accordance with section 21(2).

Schedule 1

[s. 22 & Sch. 2]

Amount of Recycling Levy

Column 1	Column 2	Column 3
Item	Class of regulated electrical equipment	Amount of recycling levy per item of equipment
1.	Air conditioner	\$125
2.	Refrigerator	\$165
3.	Washing machine	\$125
4.	Television	\$165
5.	Computer	\$15
6.	Printer	\$15
7.	Scanner	\$15
8.	Monitor	\$45

Schedule 2

[s. 28]

Wording Contained in Receipts

本收據所列的產品，是《產品環保責任條例》(第 603 章)所指的受管制電器。該條例就該產品徵收下列循環再造徵費：

[適用的受管制電器類別]：每部
\$[附表 1 訂明的徵費額]

A product set out in this receipt is regulated electrical equipment under the Product Eco-responsibility Ordinance (Cap. 603). The Ordinance imposes a recycling levy on the product as follows:

[Applicable class of regulated electrical equipment]: \$[Amount of levy as prescribed in Schedule 1] per item

Example—

本收據所列的產品，是《產品環保責任條例》(第 603 章)所指的受管制電器。該條例就該產品徵收下列循環再造徵費：

空調機：每部\$125

洗衣機：每部\$125

電視機：每部\$165

A product set out in this receipt is regulated electrical equipment under the Product Eco-responsibility Ordinance (Cap. 603). The Ordinance imposes a recycling levy on the product as follows:

Air conditioner: \$125 per item

Washing machine: \$125 per item

Television: \$165 per item

Secretary for the Environment

2017

Explanatory Note

The Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 (3 of 2016) amends, among other legislation, the Product Eco-responsibility Ordinance (Cap. 603) (*parent Ordinance*) to implement a mandatory producer responsibility scheme on certain electrical equipment and electronic equipment. The new section 44 of the parent Ordinance empowers the Secretary for the Environment to make regulations for the implementation of the scheme. This Regulation is a regulation made under that section.

2. This Regulation provides for—
- (a) matters related to registered suppliers, including the registration of suppliers, provision of recycling labels, submission of returns, keeping of records and documents, submission of audit reports, and payment of recycling levies;
 - (b) matters related to sellers, including the provision of recycling labels and receipts, endorsement of and change to removal service plans, and requests for removal services; and
 - (c) the better carrying out of the provisions and purposes of the parent Ordinance.