

# **立法會**

## ***Legislative Council***

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### **Paper for the House Committee meeting on 23 June 2017**

### **Report of the Subcommittee on Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedule 1) Order 2017**

#### **Purpose**

This paper reports on the deliberations of the Subcommittee on Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedule 1) Order 2017 ("the Subcommittee").

#### **Background**

2. The Mandatory Energy Efficiency Labelling Scheme ("MEELS") was introduced through the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598) ("the Ordinance") which was enacted on 9 May 2008. Under the Ordinance, energy labels are required to be shown on all prescribed products for supply in Hong Kong to inform consumers of their energy efficiency performance.<sup>1</sup>

3. MEELS has been implemented in phases. The first phase of MEELS was fully implemented in November 2009 and covered three types of prescribed products, namely room air conditioners (cooling capacity not exceeding 7.5 kilowatts), refrigerating appliances (total storage volume not exceeding 500 litres) and compact fluorescent lamps (lamp wattage up to 60 watts). The second phase of MEELS, which was fully implemented in September 2011, extended the scope to washing machines (with rated washing capacity not exceeding 7 kilograms) and dehumidifiers (dehumidifying capacity not exceeding 35 litres per day).

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<sup>1</sup> A product with a Grade 1 energy label means that it is among the most energy-efficient in the market while a product with a Grade 5 energy label is the least energy efficient.

4. Having considered comments received during a three-month public consultation in 2015 and other factors, the Administration has proposed to include the following types of products in the third phase of MEELS:

- (a) televisions;
- (b) storage type electric water heaters;
- (c) induction cookers;
- (d) room air conditioners of reverse cycle type (i.e. with heating and cooling functions); and
- (e) washing machines (with rated washing capacity exceeding 7 kilograms but not exceeding 10 kilograms).

#### **Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedule 1) Order 2017**

5. The Secretary for the Environment ("SEN") has given notice to move a motion for the Legislative Council ("LegCo") to approve the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedule 1) Order 2017 ("the Amendment Order") at the Council meeting of 24 May 2017. The Amendment Order, which requires LegCo's approval under section 35 of the Interpretation and General Clauses Ordinance (Cap.1), seeks to amend Part 1 of Schedule 1 to the Ordinance for the purpose of implementing the third phase of MEELS. The Amendment Order, if approved, 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 form a subcommittee to study the Amendment Order. At the request of the House Committee, SEN has withdrawn the notice to move the motion mentioned in paragraph 5 above to allow time for the Subcommittee to study the Amendment Order in detail.

7. The membership list of the Subcommittee is in the **Appendix**. Under the chairmanship of Hon WONG Ting-kwong, the Subcommittee has held one meeting to discuss the Amendment Order with the Administration.

## **Deliberations of the Subcommittee**

8. The Subcommittee supports in principle the implementation of the third phase of MEELS. In the course of deliberation, members have examined issues relating to the testing of prescribed products, energy efficiency grading standard, application of the Ordinance and transitional arrangements for the third phase of MEELS, definitions of the new prescribed products, enforcement and consultation with stakeholders.

### Testing of prescribed products and energy efficiency grading standard

9. The Subcommittee has sought information on the testing of prescribed products. The Administration has explained that manufacturers or importers of prescribed products have to submit product information and test reports on the energy efficiency of the prescribed products to the Director of Electrical and Mechanical Services ("DEMS") for consideration. If DEMS is satisfied with the information submitted including the test results, he will notify the manufacturers or importers of the reference number assigned to the product models concerned. Manufacturers or importers are required to attach energy labels in the prescribed format specified in the Ordinance before supplying these products in Hong Kong. All local suppliers (including wholesalers and retailers) cannot supply any prescribed product which has not been assigned a reference number or does not bear the energy label. The Electrical and Mechanical Services Department ("EMSD") maintains a record of listed models containing all product models which have been assigned with reference numbers by EMSD that are still valid.

10. The Subcommittee notes that the Consumer Council has tested 14 models of split-type inverter air conditioners recently and found that although all the tested models meet the requirement of Grade 1 rating in energy efficiency, the electricity run-up of the samples can vary by 20%.<sup>2</sup> The Consumer Council has suggested the Government consider tightening the existing standard of MEELS in the long run to encourage the industry to design and introduce products of higher energy efficiency. The Administration has advised that EMSD regularly reviews the energy efficiency grading standard of the prescribed products of MEELS in the light of market developments and other factors. For instance, if the less energy efficient models of a prescribed product have been phased out by market forces, EMSD will consider to tighten the grading standard.

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<sup>2</sup> The test results were released on CC's website on 15 May 2017.

### Application of the Ordinance and transitional arrangements

11. The Subcommittee has enquired (a) whether the Ordinance is applicable to second-hand products, (b) whether the transitional arrangements for the third phase of MEELS apply to manufacturer, importer or seller in the supply chain of new prescribed products, and (c) the treatment for new prescribed products procured, manufactured or imported before the commencement date of the Amendment Order.

12. The Administration has advised that the prohibition on supply of prescribed products without reference number and energy labels and the power of DEMS to serve prohibition notices,<sup>3</sup> as well as the transitional arrangements for each phase of MEELS, apply to the supply of prescribed products in Hong Kong irrespective of whether the supply is made by a manufacturer, importer or supplier, and regardless of how the prescribed products are supplied (i.e. through physical retail outlets or online shops). As stipulated in section 3 of the Ordinance, the Ordinance does not apply to second-hand products.<sup>4</sup>

13. The Administration has further advised that under section 7 of the Amendment Order, sections 4 and 5 of the Ordinance (i.e. the prohibition on supply of prescribed products without reference and energy labels) will not apply to a new prescribed product if it is proved to the satisfaction of DEMS that before the commencement date, a contract has been entered into for the procurement of the new prescribed product that is to be supplied as part of, or in connection with, the disposition of any specified premises, or that the new prescribed product has been manufactured in or imported into Hong Kong.

### Definitions of the new prescribed products

14. The Subcommittee notes that while the current Amendment Order adds new types of prescribed products to Schedule 1 to the Ordinance to form the basis for implementing the third phase of MEELS, the definitions of the new

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<sup>3</sup> Please refer to sections 4, 5 and 16 of the Ordinance for details of the provisions.

<sup>4</sup> Section 3 of the Ordinance provides that the Ordinance does not apply to a prescribed product that is –

- (a) under trans-shipment or in transit through Hong Kong;
- (b) manufactured in Hong Kong for export;
- (c) supplied as scrap;
- (d) supplied in a place other than Hong Kong under a sale agreement which is entered into in Hong Kong;
- (e) a second-hand product; or
- (f) supplied as part of or in connection with the disposition of any premises other than specified premises.

prescribed products are not given in the Amendment Order but will be set out in the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2017 to be introduced into LegCo. The Subcommittee has enquired why the Administration has not introduced the two items of subsidiary legislation at about the same time so that the Subcommittee can study them concurrently, especially since it is necessary to examine the definitions of the new prescribed products when considering the addition of these products to MEELS.

15. The Administration has advised that taking into account the different legislative procedures and timeframes of the two amendment orders (i.e. the current Amendment Order requires LegCo's approval under section 35 of Cap. 1 whereas the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2017 is subject to amendment by LegCo under section 34 of Cap. 1, the Administration's plan is to introduce the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2017 after the current Amendment Order has been approved by LegCo.

16. At the request of the Subcommittee, the Administration has briefed members on the definitions of the new types of prescribed products under the third phase of MEELS, as set out in the draft Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2017 (i.e. Annex B to the LegCo Brief issued by the Environment Bureau on 2 May 2017 (File Ref: ENB 24/26/24)). Subcommittee members have not raised any views on the definitions.

### Enforcement

17. The Subcommittee has sought information on enforcement of the Ordinance. The Chairman has expressed concerns about the potential difficulty to enforce against non-compliance with the energy efficiency grading standards for prescribed products supplied in Hong Kong through online shops which may involve persons who carry on their businesses outside Hong Kong. He has urged the Administration to keep in view the situation, and enhance the effectiveness of enforcement actions on this front.

18. The Administration has explained that EMSD regularly conducts shop inspections and selects samples of listed models for testing by independent accredited laboratories to check whether the prescribed products conform with the energy efficiency information submitted to EMSD, and whether there is any unauthorized use of energy labels. EMSD also collaborates with the Consumer Council in conducting sample tests of the prescribed products. If a listed model is found not conforming with the information submitted to EMSD, its reference number will be removed from the record of listed models and the

model will not be allowed to be supplied in Hong Kong. In view of the growing popularity of supply of products (including prescribed products of MEELS) through online shops, the Administration has stepped up monitoring on the supply of prescribed products through these channels. The Administration also maintains liaison with the relevant authorities of the Mainland and overseas jurisdictions for taking cross-boundary enforcement actions.

19. According to the Administration, EMSD has conducted over 450 compliance monitoring tests (up to mid-2017) on samples of the five types of prescribed products currently covered by MEELS, and 8% of the samples tested were found to be non-compliant with the requirements, with most of them found during the initial stage of MEELS. Since 2015, only four models were found to be non-compliant with the requirements indicating that the situation has improved. After the introduction of MEELS in 2008, DEMS has served more than 50 prohibition notices and initiated six prosecutions on non-compliant prescribed products. No counterfeit energy labels have been identified during compliance monitoring and enforcement. As regards the penalty for unauthorized use of energy labels, the Administration has advised that a person who, with the intent to deceive or mislead another person into believing that a product being not a listed model is a product of the listed model, or that the product conforms with the information on the energy label, commits an offence under section 13 of the Ordinance and is liable on conviction to a fine at level 6 (\$100,000) and imprisonment for six months.

#### Consultation with stakeholders

20. The Subcommittee has enquired about the consultation conducted by the Administration with the relevant stakeholders on the third phase of MEELS. The Administration has advised that EMSD conducted a three-month consultation on the matter in 2015. The current proposal has taken into account views received from trade associations, professional bodies, education institutions, power companies, product manufacturers, importers and suppliers, and the Consumer Council, which are in general supportive of the proposal. The Energy Efficiency and Conservation Sub-committee under the Energy Advisory Committee has been consulted and has indicated support for the proposal. The LegCo Panel on Environmental Affairs was consulted in January 2016 and Panel members were in general supportive of the proposal. In addition, EMSD has conducted a three-month consultation from December 2016 to February 2017 on the revised Code of Practice on Energy Labelling of Products which incorporates the practical guidance and technical details to the trades in respect of the new prescribed products under the third

phase of MEELS.<sup>5</sup>

Inclusion of more prescribed products into the Mandatory Energy Efficiency Labelling Scheme

21. The Subcommittee has enquired about the Administration's plan to include other types of appliances (such as instantaneous type electric water heaters) into MEELS in future. The Administration has advised that it will take into account factors including overseas practices, availability of testing standards and testing laboratories, as well as the energy consumption and energy saving potential of products, in considering the inclusion of additional types of products into MEELS in future. Products under consideration at this stage include rice cookers and microwave ovens.

**Recommendation**

22. Subcommittee members have no objection to the Amendment Order and supports the Administration to move the resolution on the Amendment Order at the Council meeting of 12 July 2017.

**Advice sought**

23. Members are requested to note the deliberations and recommendation of the Subcommittee.

Prepared by  
Council Business Division 1  
Legislative Council Secretariat  
22 June 2017

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<sup>5</sup> Section 42 of the Ordinance empowers DEMS to, inter alia, approve, issue and revise code of practice to provide practical guidance for requirements under the Ordinance. The Code of Practice on Energy Labelling of Products issued by EMSD under section 42 of the Ordinance provides practical guidance and technical details to the trades about the relevant test standards, calculation methods and determination of energy efficiency grading levels of the prescribed products, in accordance with which the energy efficiency performance of the product models are tested and assessed.

**Subcommittee on Energy Efficiency (Labelling of Products) Ordinance  
(Amendment of Schedule 1) Order 2017**

**Membership list**

**Chairman** Hon WONG Ting-kwong, SBS, JP

**Members** Hon CHAN Hak-kan, BBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon SHIU Ka-fai  
Hon Tanya CHAN  
Hon HUI Chi-fung  
Dr Hon YIU Chung-yim

(Total: 7 members)

**Clerk** Ms Angel SHEK

**Legal Adviser** Miss Joyce CHAN