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**Legislative Council**

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

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**Council meeting of 5 July 2017**

**Proposed resolution under the Product Eco-responsibility Ordinance  
and the Interpretation and General Clauses Ordinance**

The Secretary for the Environment will move the proposed resolution in **Appendix 1** under section 44 of the Product Eco-responsibility Ordinance (Cap. 603) and section 35 of the Interpretation and General Clauses Ordinance (Cap. 1) at the above meeting. The President has directed that the proposed resolution be printed in the terms in which it was handed in on the Agenda of the Council.

2. The speech, in both Chinese and English, which the Secretary will deliver when moving the proposed resolution is in **Appendix 2**.

(Dora WAI)  
for Clerk to the Legislative Council

Encl.

**Product Eco-responsibility Ordinance  
and  
Interpretation and General Clauses Ordinance**

**Resolution**

(Under section 44 of the Product Eco-responsibility Ordinance (Cap. 603) and section 35 of the Interpretation and General Clauses Ordinance (Cap. 1))

**Product Eco-responsibility (Regulated Electrical  
Equipment) Regulation**

**Resolved** that the Product Eco-responsibility (Regulated Electrical Equipment) Regulation, made by the Secretary for the Environment on 25 April 2017, be approved, subject to the amendments as set out in the Schedule.

**Schedule**

**Amendments to Product Eco-responsibility (Regulated  
Electrical Equipment) Regulation**

1. **Section 9 amended (provision of recycling labels)**  
Section 9—  
**Delete subsection (3)**  
**Substitute**  
“(3) The registered supplier may provide the label by affixing it to the regulated electrical equipment or otherwise.”.
2. **Section 27 amended (provision of recycling labels)**  
Section 27—  
**Delete subsection (3)**  
**Substitute**  
“(3) The seller may provide the label by affixing it to the regulated electrical equipment or otherwise.”.
3. **Part 3, Division 2 heading amended (arrangement for removal services)**  
Part 3, Division 2, heading—  
**Delete**  
“Arrangement for”.
4. **Section 31 amended (requirements under section 41(3)(c) of Ordinance)**  
(1) Section 31(1)(a)—

**Delete subparagraph (i)****Substitute**

“(i) must not specify more than 5 collectors;”.

- (2) After section 31(1)(a)(ii)—

**Add**

“(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”.

**5. Section 32 amended (other grounds of refusal)**

- (1) Section 32(2)(e)—

**Delete**

“or”.

- (2) Section 32(2)(f)—

**Delete the full stop****Substitute**

“; or”.

- (3) After section 32(2)(f)—

**Add**

“(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.”.

**6. Section 39 amended (interpretation)**

- (1) Section 39, English text, definition of *distributed equipment*—

**Delete the full stop****Substitute a semicolon.**

- (2) Section 39—

**Add in alphabetical order**

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

**7. Section 40 substituted**

Section 40—

**Delete the section****Substitute****“40. Requests for removal services**

A request for a removal service must be made—

- (a) in the manner specified by the seller; and
- (b) within 3 days after the consumer enters into the distribution transaction with the seller.”.

**8. Section 41 amended (record keeping)**

- (1) Section 41(2)(a)—

**Delete**

“transaction in which the distributed equipment was distributed”

**Substitute**

“distribution transaction”.

- (2) Section 41(2)(d)—

**Delete**

“collector”

**Substitute**

- “remover”.
- (3) Section 41(2)(e)—  
**Delete**  
“collector”  
**Substitute**  
“remover”.
- (4) Section 41(2)(f)—  
**Delete**  
“collector was not”  
**Substitute**  
“remover was a collector other than”.
- (5) Section 41(2)(f)—  
**Delete the full stop**  
**Substitute a semicolon.**
- (6) After section 41(2)(f)—  
**Add**  
“(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.”.
- (7) Section 41(5), definition of *prescribed period*, paragraph (a)—  
**Delete**  
“consumer takes actual possession of the distributed equipment”  
**Substitute**  
“distribution transaction is made”.

- (8) Section 41(5), definition of *prescribed period*, paragraph (b)—  
**Delete**  
“consumer takes actual possession of the distributed equipment”  
**Substitute**  
“distribution transaction is made”.
- (9) Section 41(5)—  
**Delete the definition of actual collector.**
- (10) Section 41(5)—  
**Add in alphabetical order**  
“*actual remover* (實際除舊者) means—  
(a) the collector who actually provides a removal service; or  
(b) if a seller provides the service—the seller;”.

## Product Eco-responsibility (Regulated Electrical Equipment) Regulation

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## 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).

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## 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 label is not required to be provided by affixing it onto the regulated electrical equipment.

**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 label is not required to be provided by affixing it onto the regulated electrical equipment.

**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 3 collectors; and
    - (ii) must specify 1 collector who meets the requirement specified in subsection (2) as a default collector; 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.

**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.

**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 3 days after the consumer takes actual possession of the distributed equipment.
- (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 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 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 collector;
  - (f) if the actual collector was not 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.

- (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 collector* (實際收集者) means the collector who actually provides the removal service;

*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 consumer takes actual possession of the distributed equipment; and
- (b) ending on the expiry of 1 year after the day on which the 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]

#### 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:

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

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 4.25

### 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.

**Speech by the Secretary for the Environment  
on the motion regarding the Product Eco-responsibility (Regulated  
Electrical Equipment) Regulation**

President,

I hereby move that the resolution as set out under my name on the agenda be passed.

2. The Legislative Council enacted in March of last year the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 (hereinafter referred to as “Amendment Ordinance”), to provide for the legislative framework to implement the producer responsibility scheme on waste electrical and electronic equipment (hereinafter referred to as “WPRS”). The WPRS aims to put in place a system for the proper management of WEEE generated in Hong Kong. Under the Amendment Ordinance, the WPRS covers eight classes of electrical and electronic equipment, including air conditioners, refrigerators, washing machines, televisions, computers, printers, scanners and monitors (collectively as “regulated electrical equipment” or “REE”). Suppliers of REE will be required to register with the Environmental Protection Department (“EPD”) as registered suppliers and pay a recycling levy for REE that is distributed in Hong Kong. Sellers of REE, after distribution of REE and upon request, must arrange free removal service for consumers such that the old item may be delivered to a licensed recycler.

3. The resolution now put before the Council for approval mainly concerns the Product Eco-responsibility (Regulated Electrical Equipment) Regulation (hereinafter referred to as “the Regulation”) made under section 44 of the Product Eco-responsibility Ordinance (Cap. 603) (hereinafter referred to as “parent ordinance”), to provide for the necessary operational details for the “upstream measures” under the WPRS.

4. Taking this opportunity I would like to thank the Subcommittee (under the chairmanship of Ir Dr WK Lo) for sparing no effort in May and June for completing the scrutiny of the Regulation. Before that, the Subcommittee had completed the scrutiny of a commencement notice, which enabled EPD to start accepting applications for waste disposal licence in respect of e-waste on 19 June. I have explained the Government’s relevant position during the debate at the Council meeting on 14 June and shall not repeat myself today. As regards the



Regulation, Subcommittee members have made a number of valuable suggestions and, with the support of the Subcommittee, we agree to propose certain amendments. Incorporating these amendments, the measures prescribed under the Regulation are outlined as follows.

*Registration of Suppliers, Submission of Returns and Payment of Recycling Levies*

5. Under the parent ordinance, a person may apply to the Director of Environmental Protection (“the Director”) to be registered as a registered supplier in accordance with the Regulation. We propose that there will be two types of registration, namely ordinary registration and short-term registration. As regards ordinary registration, a registered supplier must submit quarterly returns 28 days after the quarterly cut-off dates. Each return must contain relevant inventory information for REE and recycling labels. Short-term registration will not be longer than 30 days and a short-term registered supplier will only have to submit a return covering the entire term of registration. The purpose of a short-term registration is to facilitate those suppliers who may only operate business of distributing REE for a short period of time and in limited scale, for instance, expo exhibitors from outside Hong Kong.

6. Under the parent ordinance, having determined the amount of recycling levy payable by a registered supplier, the Director will serve on him/her a payment notice. The recycling levy must be paid within 30 days after the service of the notice. In line with the “polluter pays” principle, the recycling levy for REE should be set at such a level to recover the full costs. The proposed charging levels, which are the same as those reported to the Panel on Environmental Affairs in January, are –

- (i) \$165 per item for televisions and refrigerators;
- (ii) \$125 per item for washing machines and air conditioners;
- (iii) \$45 per item for monitors; and
- (iv) \$15 per item for computers, printers and scanners.

We envisage that the WPRS would be able to achieve full cost-recovery by setting the recycling levy at the aforesaid levels, though it is lower than the indicative range published during the public consultation stage. Upon implementation of the WPRS, we will conduct fees and charges review in accordance with the Government’s established policy and propose adjustments as and when appropriate. During the reviews, we will take into account various factors that may affect the level of recycling levy, for example inflation rate, participation rate in the

recycling of REE, and fluctuations in the sales volume of REE.

#### *Submission of Audit Reports and Record Keeping*

7. The parent ordinance also requires registered suppliers to submit an audit report prepared by a practicing certified public accountant to the Director every year in respect of the returns he/she submitted. The registered supplier is also required to keep records and documents relating to a return for five years after the submission of the return. We propose that, at the time of registration, there should be flexibility for the Director to specify an annual audit date taking into account practical circumstances of individual registered supplier. After completion of each auditing process, the auditor must state in the report whether the registered supplier has kept records and documents in accordance with the law; the returns have been prepared in accordance with those records and documents; and the quantities of REE reported in the returns have been reported in accordance with the law. Apart from the audit, the Director may also verify the information reported in the returns through records and documents kept by registered suppliers including all records, invoices, receipts, delivery notes, inventory records or any other documents.

#### *Provision of Recycling Labels and Receipts*

8. Under the parent ordinance, registered suppliers and sellers must provide an appropriate recycling label when distributing REE. Registered suppliers may apply to the Director for recycling labels free of charge for dissemination down the supply chain until they are passed to the consumers, so as to help consumers identify REE that is distributed under the WPRS. We propose that the recycling labels need not be provided on the spot; so long as it is provided before or upon the distributee takes actual possession of the REE, the relevant requirements will have been met.

9. On this issue, the Subcommittee has deliberated whether to mandate suppliers or sellers to affix recycling labels onto the REE. As we explained to the Subcommittee, having regard to the Business Impact Assessment study conducted in 2010-11, we understand that the requirement on affixing a label onto the REE before it is distributed would bring unnecessary operational challenges to the trade, especially the computer trade. The Subcommittee discussed at length in this regard. Noting that the parent ordinance has required suppliers or sellers to provide recycling labels to the distributees, we are of the view that

there is no need to mandate affixation of the labels onto the REE. However, to reflect that we encourage such practice, we have suggested certain amendments to the wordings of the relevant provisions.

10. Besides, the parent ordinance also requires that sellers must provide to consumers a receipt with the wording prescribed by the Regulation. With reference to a transaction involving the distribution of an air conditioner, a washing machine and a television, the prescribed wording will state that the relevant product is REE under the parent ordinance, and the recycling levy imposed under the parent ordinance for such three classes of products, which is, \$125 per item of air conditioner, \$125 per item of washing machine, and \$165 per item of television. This is to better inform consumers about the recycling levy payable in respect of an item of REE.

### *Removal Service*

11. Under the parent ordinance, 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, for example, a new television for an old television, then the seller must make the necessary arrangements free of charge in accordance with the seller's removal service plan as endorsed by the Director. Taking into account discussion with the trade and the Subcommittee, we have proposed certain amendments, with which the removal service plan should comply with the following requirements:

- (i) the seller may specify up to five collectors, one of whom must be specified as the "default collector". The "default collector" must undertake to provide territory-wide removal services for every particular class of REE distributed by the seller. Under the parent ordinance, the collector should ensure that equipment collected under the removal service must be transferred to a recycler specified in the plan within a reasonable time, and is accepted by the recycler;
- (ii) there must be a recycler who undertakes to the seller in writing to provide a treatment, reprocessing or recycling service for the electrical and electronic equipment removed by the collector. There will be no limit to the number of recyclers to be specified except that each recycler so specified must have been licensed under the Waste Disposal Ordinance for the disposal of e-waste; and

- (iii) to flexibly cater for practical circumstances envisaged, seller may indicate in the removal service plan whether he/she will or will not provide removal service in case none of the collectors specified under the plan is able or willing to provide the service. Accordingly, the seller should have certain arrangements so as to facilitate the electrical or electronic equipment concerned to be properly treated, reprocessed or recycled.

12. The parent ordinance requires that a seller must notify consumers in writing of his/her obligation concerning the removal service and the relevant removal terms. We propose that a seller must keep a record of each request for removal service for one year. Besides, in making arrangements for the removal service, the seller must first approach the default collector specified in the removal service plan. If the default collector confirms in writing that he/she is unable or unwilling to provide the requested service, the seller may then approach the other collectors specified in the removal service plan as endorsed by the Director. Relevant records should be kept.

13. Under the original proposal, a consumer may request for a removal service within 3 days after he/she takes actual possession of the new REE. However, Subcommittee members and the trade have raised that as consumers generally would decide “on the spot” whether removal service is necessary when they purchase new REE, the Subcommittee agrees that requiring a consumer to decide on the need of a removal service within 3 days after the purchase of the REE is a reasonable arrangement. We have accordingly proposed relevant amendments.

#### Implementation Timetable

14. President, we will strive to complete all the necessary remaining preparatory work so that the WPRS may be implemented in phases in this and the next year. Amongst other things, we will organise pilot trials on the statutory removal service in conjunction with sellers of REE later in the year with a view to bringing into effect the related legislation as soon as practicable, whereas actual implementation would be subject to the progress of the preparatory work.

15. To help members of the public understand various features of the WPRS, we will implement publicity and public education initiatives (including posters, website and Announcements in the Public Interest) in

phases. Besides, to facilitate compliance by the affected trades, we have arranged a series of briefings to facilitate suppliers and sellers to better understand their statutory obligations. We will engage service providers to provide the relevant trades with the necessary assistance in making applications as registered suppliers and for the endorsement of removal service plans.

16. President, the completion of relevant legislative work, together with the WEEE treatment and recycling facility which will soon be commissioned, will enable us to formally implement the WPRS for the promotion of recycling and proper disposal of REE. With these remarks, I implore Members to support this motion.

- Ends -