

立法會
Legislative Council

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Paper for the House Committee

**Report of the Subcommittee on
Electricity Ordinance (Commencement) Notice 1999 and
Electrical Products (Safety) Regulation (Commencement) Notice 1999**

Purpose

This paper reports on the deliberations of the Subcommittee on Electricity Ordinance (Commencement) Notice 1999 and Electrical Products (Safety) Regulation (Commencement) Notice 1999.

Background

2. The Electricity Ordinance (“Ordinance”) was enacted in 1990 to provide for, among other things, safety requirements for electrical products. The provisions in the Ordinance relating to safety of electrical products were brought into operation on 23 March 1995, except for the provision that no person shall supply an electrical product for which no certificate of safety compliance has been issued as required by regulations in respect of electrical product safety, pending the preparation of the relevant regulations. The Electricity (Amendment) Bill 1996 adding certain provisions to enable the introduction of regulations on electrical product safety was published in the gazette in February 1997 and brought into operation on 29 May 1998. The Bills Committee set up by the then Legislative Council (“LegCo”) to study the Bill also scrutinized the draft Electrical Products (Safety) Regulation (“Regulation”) and made a number of recommendations, including those on narrowing the application of the Regulation so as to reduce the ramifications for the trading sector without compromising safety. The Regulation incorporating the Bills Committee’s recommendations was gazetted on 2 May 1997, to be brought into operation in phases.

3. Having regard to the practical difficulties raised by the trade in complying with the certificate of safety compliance requirement in respect of parallel imported electrical products, second hand products and locally fabricated personal computers, the LegCo Panel on Economic Services discussed with the Administration in September and November 1998 the arrangements to ensure smooth implementation of

the relevant provisions under the Regulation. The Administration agreed to work out with the trade measures to facilitate compliance with the provisions relating to certificate of safety compliance in respect of these products and defer the implementation of these provisions originally planned for November 1998.

The Commencement Notices

4. The two items of subsidiary legislation respectively appoint 25 February 1999 as the day on which section 29(1)(b) of the Ordinance and sections 7 and 8 of the Regulation shall come into operation.

5. Section 29(1)(b) of the Ordinance provides that no person shall supply an electrical product for which no certificate of safety compliance has been issued as required by regulations in respect of electrical product safety. Section 7 of the Regulation requires that a certificate of safety compliance has to be issued in respect of any electrical product designed for household use before it can be supplied in Hong Kong. Section 8 of the Regulation sets out the various forms that the certificate of compliance can take, such as a certificate issued by a certification or testing body or a declaration of conformity issued by a manufacturer.

The Subcommittee

6. At the meeting of the House Committee on 29 January 1999, Members decided to form a Subcommittee to study the two items of subsidiary legislation. With Hon CHAN Kam-lam elected as Chairman, the Subcommittee held a meeting with the Administration to discuss the Commencement Notices. The membership list of the Subcommittee is at **Appendix I**.

Deliberations of the Subcommittee

Scope of definition of “supply”

7. According to the Administration, the intention of the definition of “supply” in section 2 of the Ordinance is to include all of the commercial means through which a product may reach a consumer in order to adequately safeguard consumers against unsafe products. It also confirms that the definition includes the situation where electrical products are supplied in a property to be sold or rented out and that the owner or landlord concerned has the responsibility of complying with the certificate of safety compliance requirement when the property is sold or let. With the enormous number of newly developed and second hand properties being sold or let all the time in Hong Kong, members of the Subcommittee are gravely concerned about the burden on the general public in respect of arrangements for testing of the electrical products concerned by qualified electricians and the cost involved. Members also note that this

aspect of the definition of “supply” had not been discussed by the Bills Committee on Electricity (Amendment) Bill 1996 nor had it been brought up by the Administration to the Bills Committee.

8. In view of the wide application of the certificate of safety compliance requirement to supply of electrical products including parallel imported products, second hand products and locally fabricated personal computers, members have the added concern that there might not be adequate electrical product testing services available as there might be a sudden surge of demand for such services when the relevant provisions were implemented.

Transitional arrangements

9. In view of the practical difficulties of suppliers of parallel imported electrical products, second hand products and locally fabricated personal computers in obtaining certificates of safety compliance from the manufacturers, the Administration has drawn up “transitional arrangements” with the trade, under which the Administration will exercise flexibility in implementing enforcement of certain requirements under the Regulation for a “transitional period” of one year after the certificate of safety compliance requirements are put into operation. The “transitional arrangements” include the acceptance of declarations of conformity from local importers as certificates of safety compliance by the Director of Electrical and Mechanical Services for parallel imports not designed to operate at the local supply voltage (e.g. 110V products). The “transitional arrangements” will then be reviewed in the light of experience. Members note that there are a few legal issues in connection with the “transitional arrangements”. The Subcommittee is particularly concerned that as the “transitional arrangements” are not written in the Regulation, private prosecutions may arise where suppliers contravene the statutory requirements even though they may have complied with the “transitional arrangements”.

Publicity

10. In respect of the “transitional arrangements” applicable to parallel imports, second hand products and locally fabricated personal computers, the Administration has so far only informed the trade associations concerned and issued a press release in December 1998. Members are very concerned that the general public have not been adequately informed of the implications of the implementation of the certificate of safety compliance requirement in general and, in particular, the responsibility of the landlord in letting or owner selling a property together with electrical appliances.

Conclusion

11. In view of the wide implications of the certificate of safety compliance requirement on the general public, members of the Subcommittee urge the Administration to consider further narrowing the scope of the definition of “supply”. Members also ask the Administration to take the opportunity to re-examine the

practical difficulties faced by the trade in complying with the certificate of safety compliance requirement and work out better arrangements in respect of supply of parallel imported electrical products, second hand products and locally fabricated personal computers. The Administration should consult the relevant Panel on subsequent legislative and publicity proposals to address the concerns raised by the Subcommittee before submitting them to the LegCo. In view of the time required for the Administration to take actions, the Subcommittee considers that the Commencement Notices should be repealed.

Resolution

12. The Resolution proposed by the Subcommittee to repeal the Electricity Ordinance (Commencement) Notice 1999 and Electrical Products (Safety) Regulation (Commencement) Notice 1999 is at **Appendix II**.

Recommendation

13. The Subcommittee recommends that the Electricity Ordinance (Commencement) Notice 1999 and Electrical Products (Safety) Regulation (Commencement) Notice 1999 be repealed. Taking into account the intervening Lunar New Year holiday before the expiry of the scrutiny period and the deadline for giving notice of motion to amend the subsidiary legislation, the Chairman of the Subcommittee has already given notice to move the motion to repeal the two items of subsidiary legislation at the Council meeting on 10 February 1999.

Advice Sought

14. Members are invited to note the deliberations of the Subcommittee and support the recommendations at paragraph 13 above.

Legislative Council Secretariat
8 February 1999

立法會
《〈電力條例〉1999年(生效日期)公告及
〈電氣產品(安全)規例〉1999年(生效日期)公告》小組委員會
Legislative Council
Subcommittee on
Electricity Ordinance (Commencement) Notice 1999 and
Electrical Products (Safety) Regulation (Commencement) Notice 1999

委員名單
Membership List

陳鑑林議員(主席)	Hon CHAN Kam-lam (Chairman)
何鍾泰議員	Dr Hon Raymond HO Chung-tai, JP
李啟明議員	Hon LEE Kai-ming, JP
李華明議員	Hon Fred LI Wah-ming
周梁淑怡議員	Hon Mrs Selina CHOW LIANG Shuk-ye, JP
單仲偕議員	Hon SIN Chung-kai

合共： 6位議員
Total: 6 Members

日期： 1999年2月3日
Date: 3 February 1999