

## **Legislative Council Panel on Economic Services**

### **IMPLEMENTATION OF THE PROVISIONS IN THE ELECTRICITY ORDINANCE FOR SAFETY CERTIFICATION OF HOUSEHOLD ELECTRICAL PRODUCTS**

#### **INTRODUCTION**

This paper informs Members of the outcome of further consideration by the Administration of the way forward in implementing the “certificate of safety compliance” provisions of the Electricity Ordinance and the Electrical Products (Safety) Regulation.

#### **BACKGROUND**

2. The Electricity Ordinance (“the Ordinance”) provides for, among other things, safety requirements for electrical products. The provisions in the Ordinance relating to safety of electrical products (sections 24 to 29) were brought into effect in 1995, with the exception of section 29(1)(b), which 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.

3. The Electrical Products (Safety) Regulation (“the Regulation”) was made in 1997. Its main provisions were brought into operation in October 1997 and May 1998, except for sections 7 and 8. Section 7 of the Regulation requires, among other things, that no person shall supply an electrical product unless a certificate of safety compliance has been issued in respect of the product. The purpose of the certificate is to show, to the satisfaction of the Director of Electrical and Mechanical Services, that the electrical product concerned complies with the relevant safety requirements under the Regulation. Section 8 of the Regulation sets out the various forms that the certificate can take. For example, it can be a certificate issued by a certification or testing body or a declaration of conformity issued by a manufacturer.

4. On 22 January 1999, the Electricity Ordinance (Cap. 406) (Commencement) Notice 1999 and the Electrical Products (Safety) Regulation (Cap. 406 sub. leg.) (Commencement) Notice 1999 were gazetted to appoint 25 February 1999 as the day on which section 29(1)(b) of the Ordinance and sections 7 and 8 of the Regulation, respectively, would come into operation. The Legislative Council set up a Subcommittee to examine the two commencement notices. The Subcommittee raised some concerns over the practical impact of the provisions. As the concerns required further study by the Administration before they could be resolved, the Subcommittee decided that the commencement notices should be repealed. The Legislative Council repealed the notices on 10 February 1999.

## **CONCERNS EXPRESSED BY THE LEGCO SUBCOMMITTEE**

5. The Legislative Council Subcommittee had the following concerns -
- (a) The Subcommittee noted that the existing definition of “supply” in the Ordinance included the situation where electrical products were supplied in a property to be sold or rented out. The effect of the commencement notices was therefore to oblige property owners or landlords to have “certificates of safety compliance” in respect of the electrical products concerned when the property - whether newly built or second hand - was sold or let. The Subcommittee noted that this requirement would entail additional responsibilities and costs for property vendors and lessors in arranging safety tests and obtaining safety certification for such equipment. The Subcommittee considered that the requirement would have wide implications for property transactions and possibly overburden testing services and should therefore be reconsidered. The Subcommittee requested that the Administration consider narrowing the scope of the definition of “supply” to exclude electrical products supplied in a property to be sold or let.
  - (b) The Subcommittee noted that the Electrical and Mechanical Services Department had negotiated with the trade certain “transitional arrangements” designed to accommodate the position of parallel importers of electrical goods and suppliers of second-hand products and locally fabricated computers, for implementation administratively. The Assistant Legal Adviser of the Legislative Council observed that it would be tidier from a legal point of view if the transitional arrangements could be incorporated into the Regulation. The Subcommittee requested that the Administration re-examine the practicality of the transitional arrangements.
  - (c) The Subcommittee considered that there should be adequate publicity for the relevant trades and the general public on the implications of implementing the certificate of safety compliance requirement.
6. The Subcommittee requested that the Administration should consult the Panel on Economic Services on any subsequent legislative and publicity proposals to address the concerns raised by the Subcommittee before submitting them to the Legislative Council.
7. In the Legislative Council on 10 February 1999, the Secretary for Economic Services said that the Administration would follow up the concerns raised by the Subcommittee and revert to Members with appropriate amendments.

## **WAY FORWARD**

### **Electrical products supplied with property**

8. The definition of “supply” in the Ordinance is intended to cover all of the commercial means through which an electrical product might reach a consumer. This reflects our policy objective that no member of the public should be supplied with an electrical product which fails to meet the statutory safety requirements.

9. The Regulation applies to an electrical product which is designed for household use and supplied in Hong Kong. However, by virtue of section 3(2), it does not apply to specified categories of electrical products, such as those in transit through Hong Kong, or manufactured in Hong Kong for export or supplied in a place other than Hong Kong under a sale agreement entered into in Hong Kong. The Subcommittee’s concern over the scope of the Regulation may more appropriately be addressed by providing for a further exemption in the Regulation, rather than by amending the definition of “supply” in the Ordinance.

10. Under the Regulation, a person who supplies electrical products with property will need to have certificates of safety compliance in respect of the products. However, in the light of the Subcommittee’s concern over the potential implications for property transactions of such a requirement and its view that the scope of the Regulation should be narrowed so as to exclude electrical products supplied in a property to be sold or let, the Regulation will be amended so that it will not apply to electrical products supplied with premises, subject to the following exclusion.

11. In studying the exemption proposed by the Subcommittee, we have considered whether it is in the interests of public safety for all electrical products supplied with property to be exempt from the Regulation. Every year, tens of thousands of new premises are constructed and equipped by developers with various electrical products prior to marketing. The number of electrical products reaching the consumer in this way runs into hundreds of thousands every year. If such products are exempt from the Regulation, its effectiveness in regulating the safety of electrical products supplied to consumers will be compromised.

12. On the other hand, it should be a relatively straightforward matter for the developer to obtain certificates of safety compliance from his electrical product suppliers when taking delivery of the products for installation in new premises. Under the Regulation, those suppliers, if they are in Hong Kong, may not supply the products to him unless certificates of safety compliance have been issued for the products concerned. If the electrical products are supplied to the developer directly from outside Hong Kong, the developer will need to request from the supplier certificates of safety compliance in the form required under the Regulation.

13. Having regard to the huge number of electrical products being supplied by developers with new premises and the relative ease with which developers should be able to comply with the safety certification requirements, we consider that electrical products supplied by developers with new premises should not be exempt from the Regulation.

14. Only the first disposition of the premises with electrical products before the premises is first occupied need be caught by the Regulation, as that should be sufficient to establish that the electrical products being supplied into the market are safe. The first disposition of the premises with electrical products will usually be by the developer. Instances may arise however where the first such disposition is made by a person other than the developer before the premises is first occupied. We intend that such dispositions should also be caught by the Regulation. Electrical products supplied in a subsequent disposition of the premises, whether by a vendor or a lessor, will be exempt from the Regulation.

15. Instances may arise where the first disposition of the premises with electrical products is made after the premises is first occupied. In such cases, it is likely that the electrical products being supplied with the premises will have been bought by the householder from retail suppliers, in which case no further regulation is necessary. It is unlikely that a developer or a person who is not the householder would find it cost-effective or convenient to equip a new premises with electrical products after the premises is occupied. We therefore intend that the Regulation should not apply where the first disposition of the premises with electrical products is made on or after the date on which the premises is first occupied.

16. In summary, we propose to amend the Regulation so that it will **not** apply to an electrical product which is supplied as part of, in connection with or incidental to the sale, lease, licence or permission to occupy or other disposition of a premises, **except** where the disposition is the first disposition of the premises with electrical products **and** the disposition occurs before the first occupation of the premises.

17. The effect of the amendment will be to -

- (a) exempt from the Regulation electrical products supplied with a premises on or after the date on which the premises is first occupied following its construction (including those supplied with a renovated or converted premises); and
- (b) retain within the scope of the Regulation electrical products supplied with a premises that is being disposed of for the first time and has not been occupied - in other words, electrical products supplied with a new premises before its first occupation.

### **Electrical goods which are parallel imports, second-hand products or locally fabricated computers**

18. The Electrical and Mechanical Services Department has discussed further with the trade the arrangements needed to enable the trade to comply with the certificate of safety compliance requirement in respect of electrical goods which are parallel imports, second-hand products or locally fabricated computers.

19. As a result, we propose to amend the Regulation so that a document can be accepted by the Director of Electrical and Mechanical Services as a certificate of safety compliance if it is a certificate or test report which, in the opinion of the Director, demonstrates that an electrical product complies with the safety requirements. This additional provision will provide the Director with the flexibility to accept as certificates of safety compliance -

- (a) documentation from overseas exporters, national certification bodies or overseas authorities presented by importers of parallel imports;
- (b) documents from a qualified person (such as a registered electrical worker) certifying the safety of a second hand electrical product; and
- (c) documents certifying the results of a type test covering a series of models of locally fabricated personal computers.

20. With this additional provision in the Regulation, there will be no need for any “transitional arrangements” and the trade will have greater flexibility as to the documentation required to satisfy the certificate of safety compliance requirement.

21. The Director will include in his guidance notes for the trade on compliance with the Regulation detailed information on the procedures to be followed by suppliers of electrical goods which are parallel imports, second-hand products or locally fabricated computers.

### **Additional amendments**

22. Having regard to comments from the trade and our own experience in working with the Regulation, we propose to take the opportunity to amend the Regulation in several minor respects. The definition of “safety requirements” will be amended so that it refers to all such requirements in the Regulation instead of only some of them, and the definitions relating to the Hong Kong Laboratory Accreditation Scheme will be amended so as to take into account the formation of the Hong Kong Accreditation Service. In addition, minor amendments will be made to the technical requirements for the numbering of declarations of conformity, the markings on electrical products, plugs and flexible cords and the labelling of plugs.

**Publicity**

23. There has been much publicity on the provisions of the Electrical Products (Safety) Regulation, including the certificate of safety compliance requirement. In the Legislative Council on 3 April 1996, the Secretary for Economic Services said that, under the then proposed Regulation, the supplier of a household electrical product would be responsible for ensuring that the product complies with the safety requirements. He also said that a product would have to be certified that it meets the relevant safety requirements before it could be supplied and that this would be done by requiring issue of a safety compliance certificate in respect of the product model concerned. The certificate of safety compliance requirement was publicised again in 1998 when the main provisions of the Electrical Products (Safety) Regulation took effect.

24. Following passage of the Amendment Regulation, there will be further advance publicity of the certificate of safety compliance requirement for the relevant trades and the general public before the requirement is implemented.

Economic Services Bureau  
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