

**立法會**  
**Legislative Council**

LC Paper No. CB(1)796/07-08  
(These minutes have been seen  
by the Administration)

Ref: CB1/BC/4/06/2

**Bills Committee on  
Energy Efficiency (Labelling of Products) Bill**

**Minutes of the thirteenth meeting  
held on Thursday, 17 January 2008, at 8:30 am  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)  
Hon SIN Chung-kai, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon WONG Ting-kwong, BBS

**Members absent** : Hon Fred LI Wah-ming, JP  
Dr Hon LUI Ming-wah, SBS, JP  
Hon CHOY So-yuk, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Vincent FANG Kang, JP

**Public officers attending** : Environment Bureau  
  
Miss Emmy WONG  
Principal Assistant Secretary for the Environment (Energy) 1  
  
Miss Joceline CHUI  
Assistant Secretary for the Environment (Energy) 3  
  
Electrical and Mechanical Services Department  
  
Mr Stephen CHAN, JP  
Deputy Director/Regulatory Services  
  
Mr Michael CHEUNG  
Chief Engineer /Energy Efficiency A

Department of Justice

Ms Phyllis POON  
Senior Government Counsel (Acting)

**Clerk in attendance :** Miss Becky YU  
Chief Council Secretary (1)1

**Staff in attendance :** Mr Timothy TSO  
Assistant Legal Adviser 2

Ms Debbie YAU  
Senior Council Secretary (1)1

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**I Meeting with the Administration**

- (LC Paper No. CB(1) 596/07-08(01) -- Administration's response to item 2 of the list of follow-up actions arising from the discussion on 27 November 2007 (LC Paper No. CB(1) 388/07-08(01) issued for the meeting on 6 December 2007)
- LC Paper No. CB(1) 596/07-08(02) -- List of follow-up actions arising from the discussion on 7 January 2008
- LC Paper No. CB(1) 596/07-08(03) -- Administration's response to LC Paper No. CB(1) 596/07-08(02)
- LC Paper No. CB(1) 596/07-08(04) -- Selected provisions with reference to costs recoverable as a civil debt prepared by the Legal Adviser to the Bills Committee
- LC Paper No. CB(3) 457/06-07 -- The Bill  
Ref: EP 86/08/70 (07) -- The Legislative Council Brief
- LC Paper No. CB(1) 1913/06-07(03) -- A list of questions raised by Hon CHOY So-yuk
- LC Paper No. CB(1) 2065/06-07(01) -- Administration's response to LC Paper No. CB(1) 1913/06-07(03)
- LC Paper No. CB(1) 2423/06-07(03) -- Summary of deputations' views on individual clauses of the Bill

The Committee deliberated (Index of proceedings attached at **Annex A**).

2. The Administration was requested to

- (a) Consider subsuming clause 44 regarding defence for employees under clause 5 such that an employee who was acting in accordance with the

instruction given to him by his employer in the course of employment would not be held liable for an offence under clause 5;

- (b) Advise the latest progress and expected coverage of the voluntary Fluorescent Lamp Recycling Programme and whether its implementation could tie in with the passage of the Bill. To also advise if the Administration had any plan to expand the coverage of the Programme in the longer term;
- (c) Advise the rationale behind clause 45 and whether other existing laws had provisions on defence of due diligence similar to that of clause 45;
- (d) Consider requiring the Director to state in the notice published in the Gazette the reason for exemption under clause 49(1)(b);
- (e) Review the drafting of clause 51(2) to make it clear that the specified forms were also available from the Internet; and
- (f) Advise the legislative process, such as positive vetting and negative vetting procedures, through which the different provisions in the Bill would be adopted and propose amendments to these provisions if necessary.

3. The next meeting would be held on Thursday, 31 January 2008, at 8:30 am. Members agreed to schedule two more meetings to continue examination of the Bill.

## **II Any other business**

4. There being no other business, the meeting ended at 10:35 am.

Council Business Division 1  
Legislative Council Secretariat  
13 February 2008

**Proceedings of the meeting of the  
Bills Committee on Energy Efficiency (Labelling of Products) Bill  
Meeting on Thursday, 17 January 2008, at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 – 000209	Chairman	Administration's response (LC Paper No. CB(1) 596/07-08(01)) to item 2 of the list of follow-up actions arising from the discussion on 27 November 2007 (LC Paper No. CB(1)388/07-08(01))	
000210 – 000824	Administration Chairman	Briefing by the Administration on its response (LC Paper No. CB(1) 596/07-08(03)) to the list of follow-up actions arising from the discussion on 7 January 2008 (LC Paper No. CB(1)596/07-08(02))	
000825 - 002252	Ms Emily LAU Administration Chairman Mr WONG Ting-kwong Assistant Legal Adviser 2 (ALA2)	<u>Subject of prosecution under clause 4 or 5</u>  Discussion on the extensive coverage of clause 5 which required any person, including an employee, who supplied a prescribed product to ensure the product was a listed model with reference number and bore an energy label whereas the defence for employees under clause 44 was too narrow to protect their interest  ALA2's advice for the Administration to consider subsuming clause 44 regarding defence for employees under clause 5 such that an employee who was acting in accordance with the instruction given to him by his employer in the course of employment would not be held liable for an offence under clause 5	The Administration to consider subsuming clause 44 regarding defence for employees under clause 5 such that an employee who was acting in accordance with the instruction given to him by his employer in the course of employment would not be held liable for an offence under clause 5
002253 – 003259	Ms Emily LAU Administration Chairman Mr SIN Chung-kai	<u>Fluorescent Lamp Recycling Programme – Financial Incentives</u>  Discussion on the need to encourage participation in the voluntary Fluorescent Lamp Recycling Programme to be launched in	The Administration to advise the latest progress and expected coverage of the voluntary Fluorescent Lamp Recycling Programme and

Time Marker	Speaker	Subject(s)	Action Required
		<p>March 2008 and the support provided by the Government for the Programme</p>	<p>whether its implementation could tie in with the passage of the Bill. To also advise if the Administration had any plan to expand the coverage of the Programme in the longer term</p>
003300 – 003837	<p>Administration Ms Emily LAU</p>	<p><u>Health impacts posed by broken compact fluorescent lamps (CFLs)</u></p> <p>Discussion on measures to minimize the health impacts on cleaners who might not be aware of the presence of used CFLs when handling domestic waste</p>	
003838 – 010035	<p>Chairman Administration Mr WONG Ting-kwong Ms Emily LAU</p>	<p><u>Continuation of clause-by-clause examination of the Bill</u> (LC Paper Nos. CB(1)1913/06-07(03), 2065/06-07(01) and 2423/06-07(03))</p> <p><u>Clause 45</u></p> <p>Concern on the catch-all approach of the clause which also put the onus of proof on the person charged for an offence under clause 5 to show that he had taken all reasonable steps and exercised all due diligence to avoid committing the offence before he could use the defence under the clause</p> <p>Discussion on the intent and the actual effect of the clause for requiring the person charged to serve a notice at least 7 working days before the hearing of the proceedings to identify or assist in the identification of another person who had committed the act or default or given the information which led to the commission of the offence under clause 5 if he wished to rely on the defence of due diligence provided under the clause.</p>	<p>The Administration to advise the rationale behind clause 45 and whether other existing laws had provisions on defence of due diligence similar to that of clause 45</p>

Time Marker	Speaker	Subject(s)	Action Required
		Mr WONG's view that prosecution effort should be directed at the retailers, suppliers and importers rather than employees	
010036 – 010658	Administration ALA2 Chairman	<u>Clause 46</u>  Discussion on the need to review the term "any officer" under clause 46(c)(i) to tie in with the Chinese rendition	
010659 - 011447	Administration Chairman Ms Emily LAU ALA2	<u>Clause 47</u>  Concern on the need for the Director to provide evidence by certificate  Administration's explanation that the presentation of the certificate could help obviate the need for the Director to appear before the proceedings	
011448 – 012021	Administration Chairman Ms Emily LAU Mr SIN Chung-kai	<u>Clause 48</u>  Administration's advice that the regulations referred under clause 48 were subject to negative vetting	
012022 – 013526	Administration Chairman Ms Emily LAU Mr SIN Chung-kai Mr WONG Ting-kwong ALA2	<u>Clause 49</u>  Discussion on the circumstances under which the Director might grant exemptions to any person or prescribed products and the need for the Director to state in the notice published in the Gazette the reason for granting the exemption under clause 49(1)(b)  Administration's undertaking for the Secretary for the Environment (the Secretary) to state at the resumption of the Second Reading on the Bill the circumstances under which exemptions would be granted  Discussion on whether the term "any particular case" in clause 49(1) was sufficiently narrow in scope to preclude any general application of the exemption power	The Administration to consider requiring the Director to state in the notice published in the Gazette the reason for exemption under clause 49(1)(b)

Time Marker	Speaker	Subject(s)	Action Required
013527 – 013647	Administration Mr SIN Chung-kai Chairman	<p><u>Clause 50</u></p> <p>Discussion on the need to specify the rank of public officers to be authorized by the Director under clause 50 to exercise the powers vested in him or to perform the duties imposed upon him by virtue of the provisions of the Bill</p>	
013648 – 014724	Administration Ms Emily LAU Mr WONG Ting-kwong Chairman Mr SIN Chung-kai	<p><u>Clause 51</u></p> <p>Discussion on the need to make available forms specified by the Director on the Internet and to state this clearly in clause 51(2)</p> <p>Discussion on submission of completed forms by electronic means. The Administration's advice that the Electronic Transactions Ordinance (Cap. 553 ) had already covered the electronic submission of all Government forms specified in the Hong Kong law unless stated otherwise</p>	The Administration to review the drafting of clause 51(2) to make it clear that the specified forms were also available from the Internet
014725 – 020329	Administration Ms Emily LAU Chairman ALA2 Mr SIN Chung-kai	<p><u>Clause 52</u></p> <p>Discussion on the need to specify clearly that regulations and orders to be made by the Secretary under clause 48 and clause 52 for amending Schedules 1 and 2 of the Bill were subsidiary legislation subject to the scrutiny of the Legislative Council and if so, to also state in the relevant clauses the types of legislative process, such as positive and negative vetting, to be used</p> <p>Members' view that amendments to the schedules relating to the addition of new prescribed products or upgrading of energy efficiency standards should undergo the positive vetting procedures or in the form of an amendment bill as appropriate whereas changes which were more technical in nature could</p>	The Administration to advise the legislative process, such as positive vetting and negative vetting procedures, through which the different provisions in the Bill would be adopted and propose amendments to these provisions if necessary

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
		undergo negative vetting procedure	
020330 – 020547	Chairman Ms Emily LAU Mr SIN Chung-kai	Date of next meeting and the need for two more meetings to complete scrutiny of the Bill	

Council Business Division 1  
Legislative Council Secretariat  
13 February 2008