

**Bills Committee on Energy Efficiency
(Labelling of Products) Bill 2007**

**The Administration's response to Action Items
raised at the Bills Committee meeting on 7 January 2008**

Time limit for prosecution

As mentioned in LC Paper No. CB(1) 514/07-08(02), we proposed to amend the Energy Efficiency (Labelling of Products) Bill (the Bill) to make it clear that the 6-month time limit counts from the commission of the offence or from the offence being discovered or coming to the notice of the Director of Electrical and Mechanical Services (the Director). Members are concerned that whether the proposed extension is sufficient in cases where the Director has exercised his power under clause 27 of the Bill.

2. Clause 27 empowers the Director to require testing if he has reasonable grounds to suspect that a product does not conform with the test results submitted to him. In implementation, the Director will only exercise his power to allow the suppliers concerned the chance to prove their products in cases of relatively minor deviations. Where necessary, the Director will follow up on the results of the tests submitted by the suppliers concerned with an improvement notice or other powers. Therefore, we consider the proposed extension of the time limit for prosecution to be sufficient.

Determination of appeal

3. In light of the comments of the Bills Committee, we propose to amend clause 38(6) of the Bill to make it clear that both the appellant and the Government can recover the costs awarded or imposed under clause 38 as a civil debt.

4. We propose to amend the Chinese rendition of “commits an offence” under clause 38(7) to read “即屬犯罪” for achieving consistency.

Use of approved code of practice in proceedings under the Bill

5. We propose to amend the Chinese rendition of “approved code of practice” in clause 41(3) read “經核准實務守則” for achieving consistency.

Subject of prosecution under clause 4 or 5

6. Many of our local legislation makes no distinction between employers and employees in the imposition of legal duties and the application of their offence provisions. This arrangement allows the prosecuting authority to take enforcement actions according to the facts and evidence of each case. We consider such arrangement to be fair and appropriate. To strike an appropriate balance, we have already provided a defence for employees who have acted in accordance with the instructions of their employers and who have no reasonable grounds to suspect cases of non-compliance under clause 44 of the Bill. Similar defence provisions are adopted in other ordinances, such as the Unsolicited Electronic Messages Ordinance (Cap. 593); the Water Pollution Control Ordinance (Cap. 358) and the Broadcasting Ordinance (Cap. 562).

Fluorescent Lamp Recycling Programme – Financial Incentives

7. As mentioned in LC Paper No. CB(1) 307/07-08(01), an industry-wide Fluorescent Lamp Recycling Programme (the Programme) would be set up to promote the proper disposal of used mercury containing lamps. A Programme Management Committee (the Committee), comprising representations from 14 local suppliers, has been set up. At its first meeting on 8 January 2008, members discussed again the suggestion of the Bills Committee on offering financial incentives to encourage public participation. Members of the Committee maintained their views that trade-wide financial incentives could at best have a short term effect in encouraging public participation and would unlikely to be sustainable. Members were of the view that individual participating companies could offer their own financial incentives as their marketing strategies.

Health impacts of broken compact fluorescent lamps (CFLs)

8. The Department of Health advises that the risk of mercury poisoning associated with the regular use of CFLs is minimal. The Department also advises that the level of ultraviolet (UV) radiation emitted from CFLs is low when compared to the UV radiation from sunlight. Moreover, the Department has already publicized the health impacts of mercury and ways to reduce the risks of exposure to mercury on its website.

**Environment Bureau
Electrical and Mechanical Services Department
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