

DRAFT

ENERGY EFFICIENCY (LABELLING OF PRODUCTS) BILL

COMMITTEE STAGEAmendments to be moved by the Secretary for the Environment

(as at 13 February 2008)

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) In the definition of “Secretary”, by deleting “, Transport and Works”.</p> <p>(b) In the English text, in the definition of “test report”, in paragraph (b), by deleting the full stop and substituting a semicolon.</p> <p>(c) By adding –</p> <p style="padding-left: 40px;">““excepted product” (例外產品) means a prescribed product to which section 11A(3) does not apply by virtue of section 11A(4);</p> <p style="padding-left: 40px;">“updating notice” (更新通知書) means a notice served by the Director under section 11A(1).”.</p>
3(1)	In the Chinese text, by deleting everything after “作為” and before “有關連” and substituting “某項指明處所的處置的一部分而供應的訂明產品，或是在與該項處置”.
3(2)(f)	In the Chinese text, by deleting everything after “作為” and before “有關連” and substituting “某項指明處所以外的處所的處置的一部分而供應的訂明產品，或是在與該項處置”.

- 4(1)
- (a) In the English text, by deleting “that product” after “unless”.
 - (b) In paragraph (a), in the English text, by adding “that product” before “is a product of”.
 - (c) In paragraph (a)(ii), by deleting “and”.
 - (d) In paragraph (b), in the English text, by adding “that product” before “bears an energy label”.
 - (e) In paragraph (b)(i), by adding “and” at the end.
 - (f) By deleting paragraph (b)(ii).
 - (g) In paragraph (b)(iii), by deleting the full stop and substituting “; and”.
 - (h) By adding –
 - “(c) the information set out on the energy label of that prescribed product conforms with the specified information submitted by the manufacturer or importer to the Director in respect of the model or, if the specified information has been amended pursuant to section 9 or 10, the specified information as read subject to section 9 or 10.”.

4

By adding –

“(1A) Subsection (1)(b) does not apply to a compact fluorescent lamp that is supplied as part of or in connection with the disposition of any specified premises.”.

- 5(1)
- (a) In the English text, by deleting “that the product” after “has ensured”.
 - (b) In paragraph (a), in the English text, by adding “that the product” before “is a product of”.
 - (c) In paragraph (a), by deleting “and”.

- (d) In paragraph (b), in the English text, by adding “that the product” before “bears an energy label”.
- (e) In paragraph (b)(i), by adding “and” at the end.
- (f) By deleting paragraph (b)(ii).
- (g) In paragraph (b)(iii), by deleting the full stop and substituting “; and”.
- (h) By adding –
 - “(c) that the information set out on the energy label of the product conforms with the information included in the record.”.

5

By adding –

“(1A) Subsection (1)(b) does not apply to a compact fluorescent lamp that is supplied as part of or in connection with the disposition of any specified premises.

(3) Subsection (1) does not apply to a person who –

- (a) is an employee who does not exercise managerial functions; and
- (b) supplies a prescribed product in accordance with the instructions given to him by his employer in the course of his employment.

(4) If an employee who does not exercise managerial functions supplies a prescribed product knowing that the product–

- (a) is not a product of a listed model; or
- (b) does not bear an energy label,

he commits an offence and is liable on conviction to a fine at level 6.”.

- 6(3)(b)(iv) In the English text, by deleting “approved” and substituting “recognized”.
- 6(3)(d) By adding “and the year” after “reference number”.
- 6(4) By deleting paragraph (b) and substituting –
“(b) a document showing that the institution has met the criteria for recognition set by the Director;”.
- 9(1) By deleting “specified information or a specified document submitted to the Director under section 6” and substituting “information submitted to the Director under section 6 occurs”.
- 9(2) In the English text, by deleting “from that” and substituting “from those”.
- 10(2) By deleting paragraph (c) and substituting –
“(c) whether the specified person still supplies the model in Hong Kong; and”.
- 10(6) By deleting “a listed model is no longer available in the market” and substituting “he no longer supplies a listed model in Hong Kong”.
- New By adding –
“11A. Specified person to update energy efficiency grading on the initiative of Director
(1) If the Director revises or approves any revisions to the calculation method of the energy efficiency grading of a prescribed product specified in the approved code of practice, the Director is to serve an updating notice on every specified

person to whom a reference number has been assigned (that is included in the record) in respect of the product.

- (2) In an updating notice, the Director is to –
 - (a) notify the specified person of –
 - (i) the new calculation method of the energy efficiency grading of the prescribed product that has been specified in the approved code of practice; and
 - (ii) the date on which the new calculation method will take effect (“effective date”);
 - (b) specify a date for the purposes of paragraph (c) and subsection (3) (“the specified date”);
 - (c) require the specified person to submit the following information in a specified form to the Director before the specified date unless he no longer supplies the prescribed product or the prescribed product is an excepted product –
 - (i) the reference number assigned to the model of the prescribed product; and
 - (ii) the calculation of the energy efficiency grading of the prescribed product in accordance with the new calculation method, and the grading

so calculated.

(3) Where an updating notice is served on a specified person in respect of a prescribed product, for the purposes of complying with section 4(1)(b)(i), the energy efficiency grading that is to be shown on the energy label of such prescribed product, supplied by that person on or after the specified date, is the energy efficiency grading calculated in accordance with the new calculation method referred to in subsection (2)(a)(i).

(4) Subsections (2)(c) and (3) do not apply in respect of a prescribed product if it meets any condition specified in Schedule 3.

(5) For the avoidance of doubt –

(a) a specified person to whom a reference number has been assigned in respect of an excepted product; and

(b) any person to whom a specified person has supplied a prescribed product (whether or not it is an excepted product),

may continue to supply the product in the same manner the product could have been supplied under this Ordinance before the effective date.”.

12(3) By adding “and to imprisonment for 6 months” after “level 6”.

13(2) By deleting paragraph (d) and substituting –

“(d) any change in the information referred to in paragraphs (a), (b) and (c);”.

- 13(2)(f) By deleting the full stop and substituting “and any change in such particulars.”.
- 14(3) By deleting “section 33” and substituting “section 33(2)(a) and may be extended by the Director if he considers that there are reasonable grounds for doing so”.
- 14(7) By adding “or by an extension under subsection (3)” after “modified after an appeal”.
- 15(1) By deleting “is supplying” and substituting “supplies”.
- 16(1)(c) In the English text, by deleting “from that” and substituting “from those”.
- 18(3) By deleting “level 1” and substituting “level 6”.
- 21 By adding “not below the rank of Assistant Electrical Inspector” after “public officer”.
- 24 By adding –
“(1A) Where an authorized officer enters any premises under a warrant, if so requested, he is to produce the warrant for inspection.”.
- 28(3) In the Chinese text, by deleting “送達第(2)款所指的通知書的 30 日內被認領” and substituting “第(2)款所指的通知書送達的 30 日內被領

回”.

30(1) By deleting “the action” and substituting “either or both of the actions”.

30(2) (a) In the English text, by deleting “action that the Director may take under subsection (1) is” and substituting “actions that the Director may take under subsection (1) are”.

(b) In paragraph (a)(iii), by adding “and” at the end.

37 By adding –

“(5) The hearing of the appeal is to be open to the public unless the appeal board determines that there is good reason for it to be held in camera.”.

38(6) By deleting “due to the Government”.

38(7) In the Chinese text, by deleting “違罪” and substituting “犯罪”.

New By adding –

“38A. Privileges and immunities of members of appeal board and witnesses

(1) The chairman and members of the appeal board have, in the performance of their functions under this Part, the same privileges and immunities as a judge of the Court of First Instance in civil proceedings in that Court.

(2) A witness, party to any appeal or representative appearing before the appeal board is entitled to the same

privileges and immunities as he would have in civil proceedings in the Court of First Instance.”.

40 By adding –

“(4A) The Director is to, before exercising the powers under subsections (1), (3) and (5), consult such organizations which, in the opinion of the Director, represent the interests of –

(a) manufacturers, importers and other suppliers, where applicable; and

(b) consumers,

of energy-using products to which the code of practice applies and as the Director thinks fit.”.

41(3) In the Chinese text, by adding “經核准” before “實務守則”.

43 By deleting the clause and substituting –

“43. Liability of employers

(1) Any act done or omission made by a person in the course of his employment (“employee”) is treated for the purposes of this Ordinance as done or made by his employer, as well as by him.

(2) In any proceedings for an offence under this Ordinance brought against an employer in respect of an act or omission of his employee, the employer is liable to be convicted of and be punished for that offence unless he establishes the defence described in subsection (3).

(3) Where any proceedings are brought against an employer by virtue of this section, it is a defence for the employer to show that –

- (a) the act was done or the omission was made without his knowledge or consent; and
- (b) he exercised all due diligence to prevent his employee from doing the act or making the omission, or doing an act or making an omission of that description, in the course of his employment.”.

44 By deleting the clause.

46(a)(i) By adding “addressed to the Director and” before “delivered”.

46(b)(i) By deleting “delivered to the individual” and substituting “addressed to the individual and delivered to him”.

46(c)(i) By adding “addressed to the company and” before “delivered”.

46(d)(i) (a) By adding “addressed to the body and” before “delivered”.

(b) In the English text, by deleting “giving it” and substituting “given”.

46(e)(i) (a) By adding “addressed to the partnership and” before “delivered”.

- (b) In the English text, by deleting “giving it” and substituting “given”.

New

By adding –

“47A. Time limit for prosecution of offences

Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), a complaint may be made or an information laid in respect of an offence under this Ordinance –

- (a) within 6 months after the commission of the offence; or
- (b) within 6 months after the offence is discovered by or comes to the notice of the Director.”.

49

By adding-

“(1A) The Director is to state in the notice referred to in subsection (1)(b) the reasons for granting the exemption.”.

51(2)

By deleting everything after “make copies” and substituting –

“available –

- (a) at the office of the Electrical and Mechanical Services Department during normal office hours; and
- (b) through such other means as the Director considers appropriate.”.

52

(a) By renumbering the clause as clause 52(1).

(b) In subsection (1), by repealing “1 and 2” and substituting “1, 2 and 3”.

(c) By adding –

“(2) An order made under this section may contain such incidental, consequential, supplemental, transitional or savings provisions as may be necessary or expedient in consequence of the order.

(3) An order made under this section to amend Part 1 of Schedule 1 is subject to the approval of the Legislative Council.”.

54(1)(c)(iv) By adding “and the year” after “reference number”.

54(2) In the Chinese text, by deleting everything after “作為” and before “有關連” and substituting “某項指明處所的處置的一部分而供應的，或是在與該項處置”。

Schedule 1 Within the square brackets, by adding “& Sch. 3” after “54”.

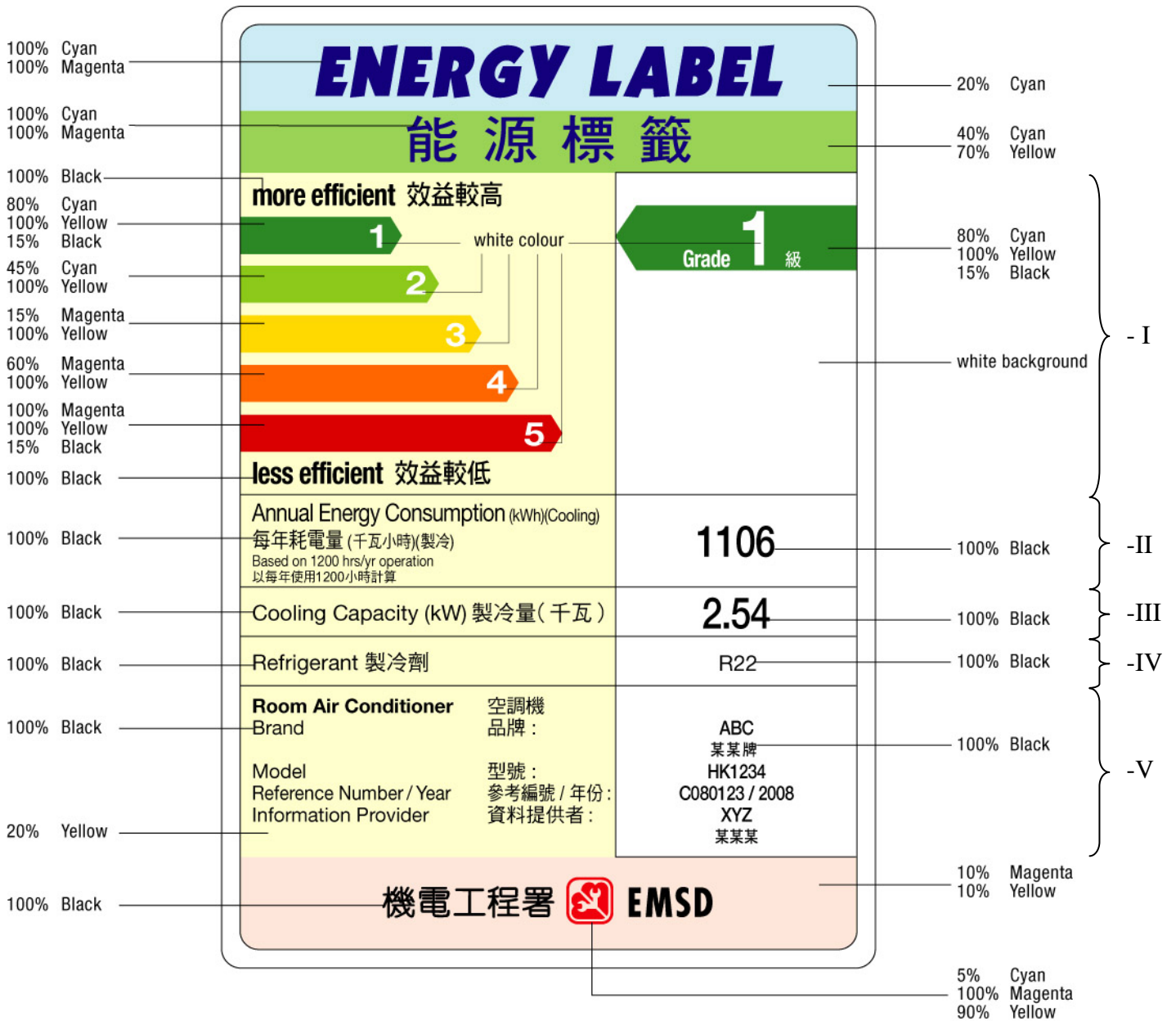
Schedule 1 By deleting “is assembled in factory and”.
Part 2, Division 1,
section 4

Schedule 1, In the Chinese text, in the definition of “非整合式熒光燈”, by
Part 2, deleting “震流器” and substituting “鎮流器”.
Division 3,
section 3

Schedule 2,
Part 2,
section 1

By deleting the energy label and substituting –

“

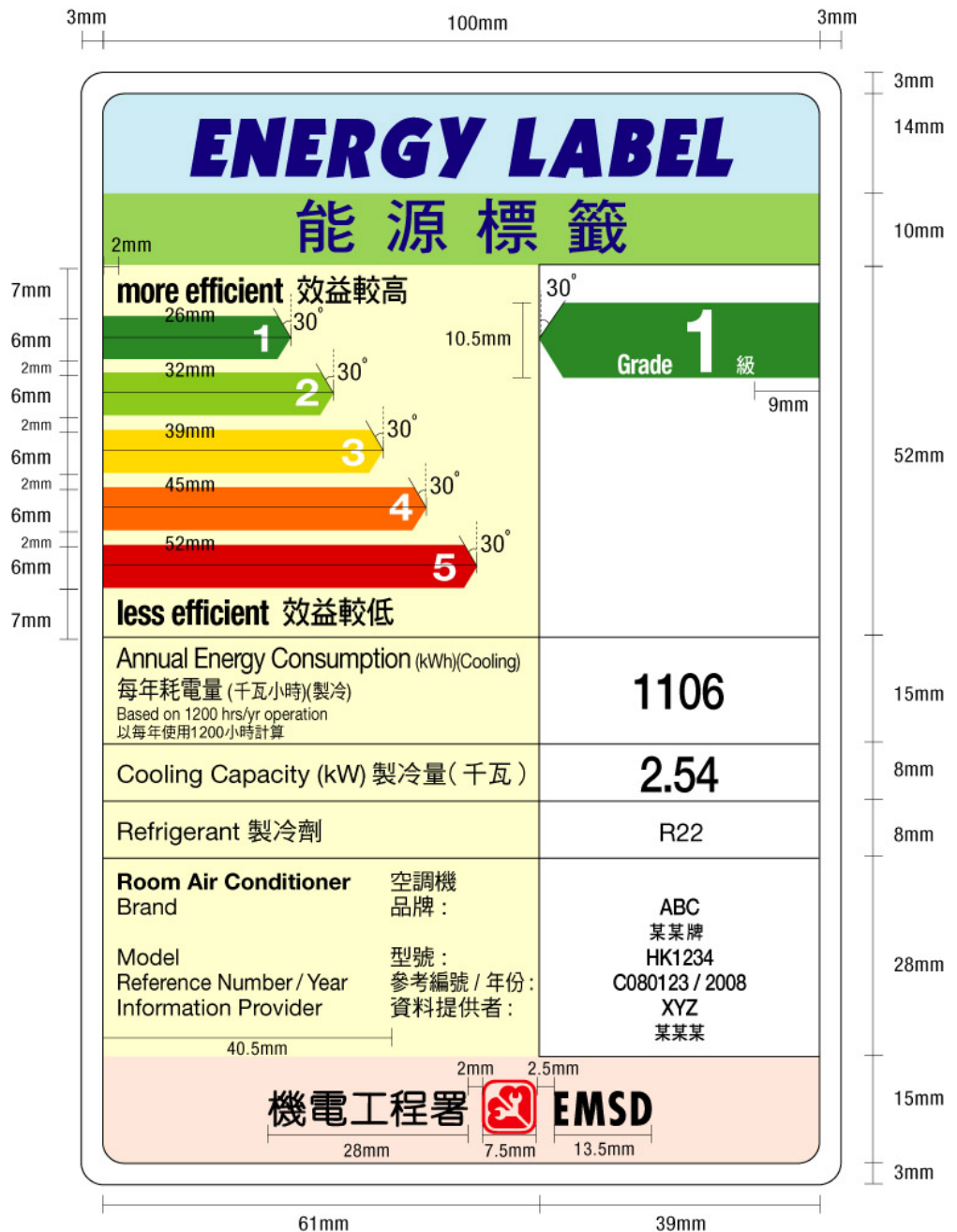


”

Schedule 2,
Part 2,
section 2

By deleting the energy label and substituting –

“



Schedule 2,
Part 2,
section 3,
Table A

In column 2 opposite to Area V, by adding “, the year in which the reference number is assigned or, where the energy efficiency grading is calculated in accordance with the new calculation method under section 11A of this Ordinance, the year in which the new calculation method takes effect” after “assigned by the Director”.

Schedule 2,

In column 1 –

Part 2,
section 4

- (a) by deleting “Reference Number” and substituting “Reference Number / Year”;
- (b) by deleting “參考編號” and substituting “參考編號 / 年份”;
- (c) by deleting “reference number and” and substituting “reference number, year and”.

Schedule 2
Part 2, section 5

By deleting the clause and substituting –

“5. (1) Subject to subsection (3), the energy label is to be attached or affixed to a prominent position of the room air conditioner and is to be clearly visible.

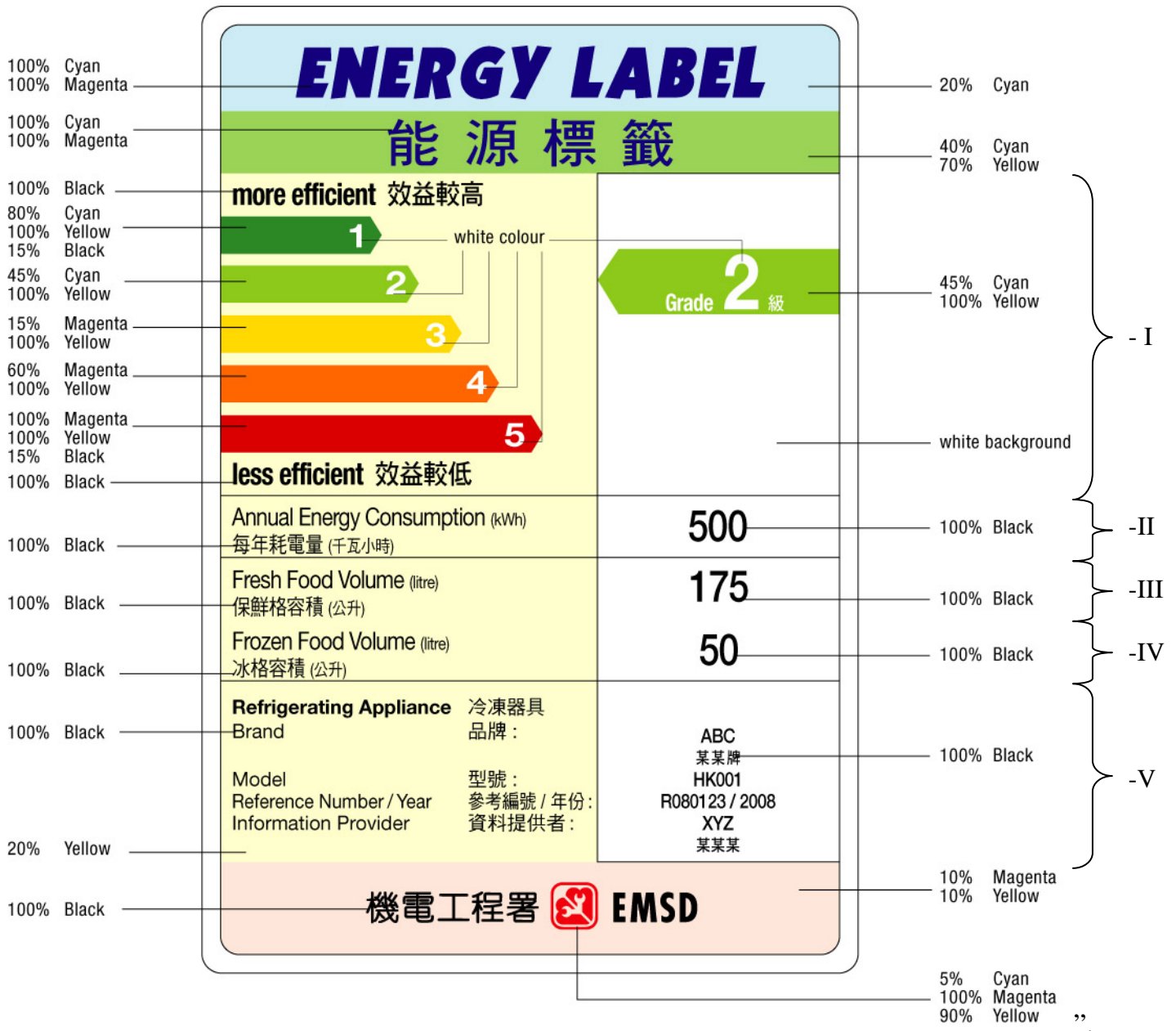
(2) For the avoidance of doubt, if only part of the room air conditioner is being exhibited, the energy label is to be attached or affixed to a prominent position of that part and is to be clearly visible.

(3) The energy label may be attached to the room air conditioner or its packaging in a manner specified by the Director where the Director has approved its being so attached.”.

Schedule 2,
Part 3,
section 1

By deleting the energy label and substituting –

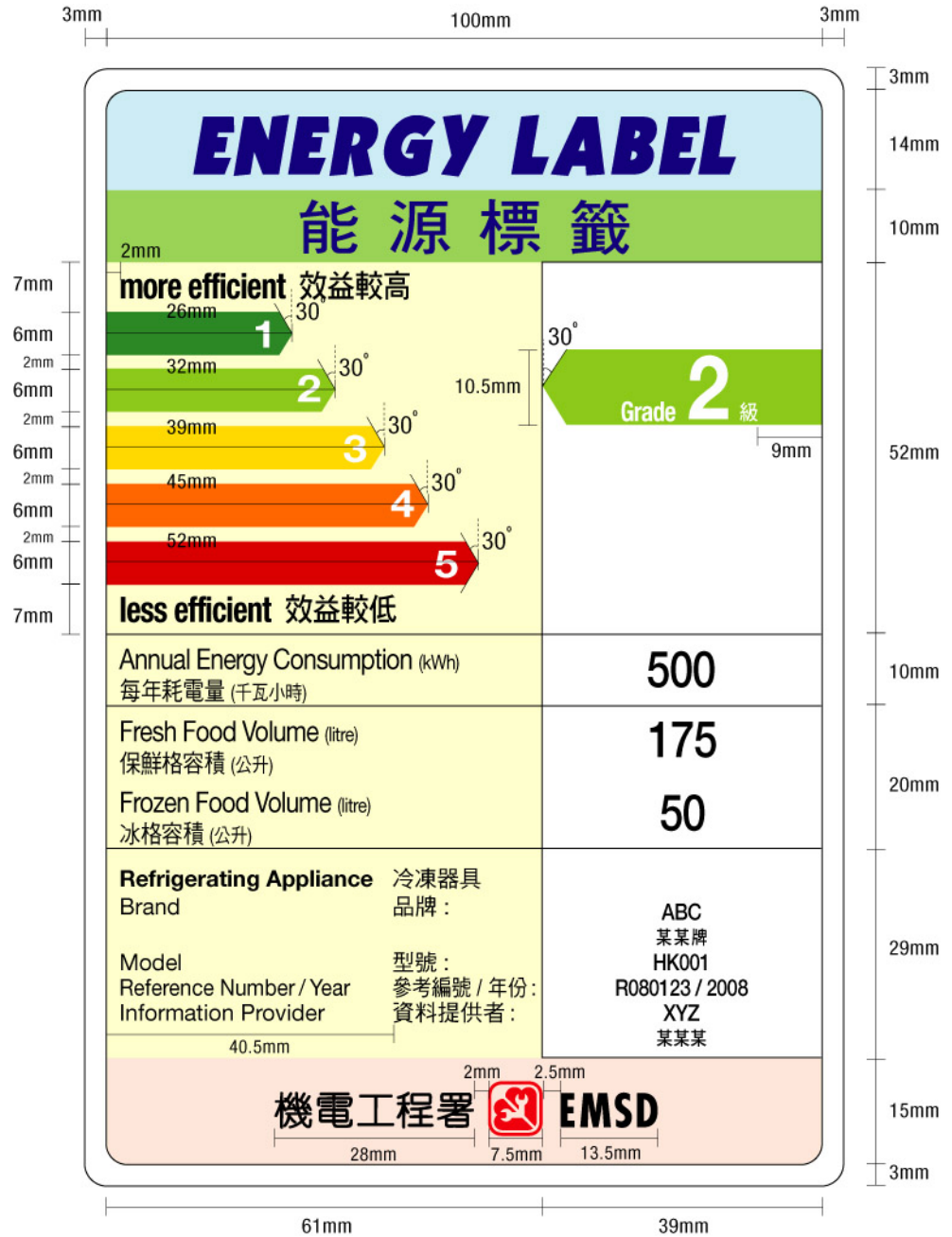
“



Schedule 2,
Part 3,
section 2

By deleting the energy label and substituting –

“



”

Schedule 2,
Part 3,
section 3,
Table B

In column 2 opposite to Area V, by adding “, the year in which the reference number is assigned or, where the energy efficiency grading is calculated in accordance with the new calculation method under section 11A of this Ordinance, the year in which the new calculation method takes effect” after “assigned by the Director”.

Schedule 2,
Part 3,
section 4

In column 1 –

- (a) by deleting “Reference Number” and substituting “Reference Number / Year”.
- (b) by deleting “參考編號” and substituting “參考編號 / 年份”;
- (c) by deleting “reference number and” and substituting “reference number, year and”.

Schedule 2
Part 3, Section 5

By deleting the clause and substituting –

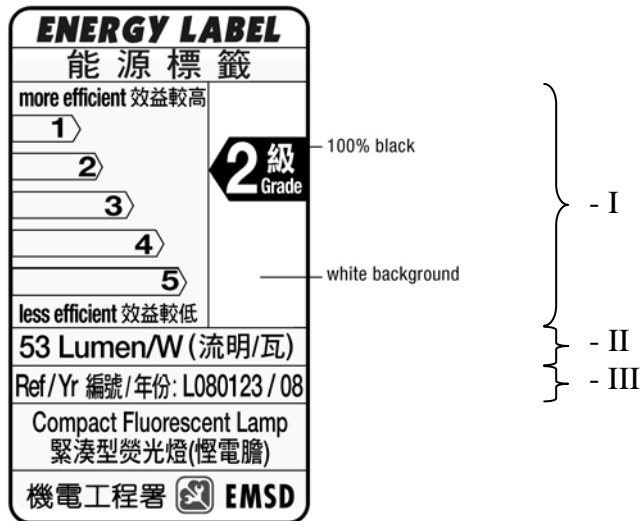
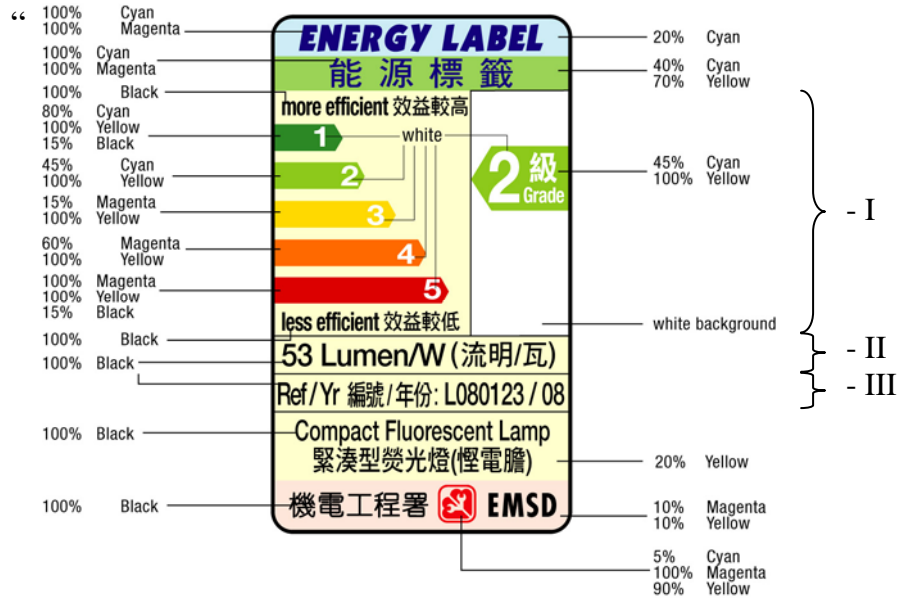
“5. (1) Subjection to subsection (3), the energy label is to be attached or affixed to the top front door or a prominent position of the refrigerating appliance and is to be clearly visible.

(2) For the avoidance of doubt, if only part of the refrigerating appliance is being exhibited, the energy label is to be attached or affixed to a prominent position of that part and is to be clearly visible.

(3) The energy label may be attached to the refrigerating appliance or its packaging in a manner specified by the Director where the Director has approved its being so attached.”.

Schedule 2,
Part 4,
section 1

By deleting the energy label and substituting –

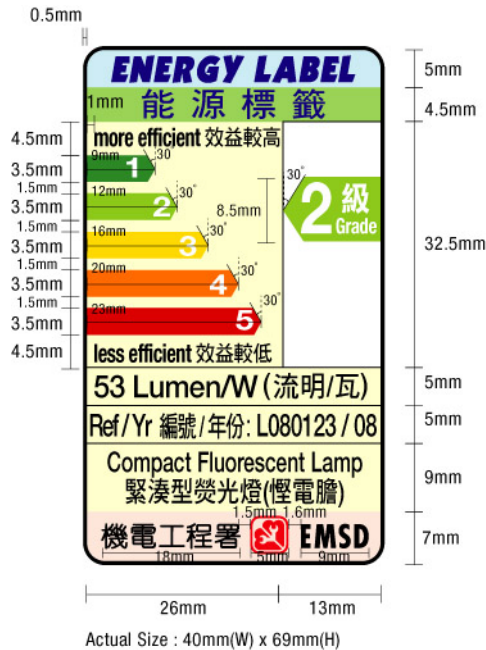


”

Schedule 2,
Part 4,
section 2

By deleting the energy label and substituting –

“



”

Schedule 2,
Part 4,
section 3,
Table C

In column 2 opposite to Area III, by adding “, the year in which the reference number is assigned or, where the energy efficiency grading is calculated in accordance with the new calculation method under section 11A of this Ordinance, the year in which the new calculation method takes effect” after “assigned by the Director”.

Schedule 2,
Part 4,
section 4

In column 1 –

- (a) by deleting “Ref.” and substituting “Ref / Yr”;
- (b) by deleting “編號” and substituting “編號 / 年份”;
- (c) by deleting “Character of reference number” and substituting “Characters of reference number and year”.

New

By adding –

“SCHEDULE 3 [ss. 11A & 52]
CONDITIONS

1. The conditions specified for the purposes of section 11A(4) of this Ordinance are that –

(a) the prescribed product is a room air conditioner or refrigerating appliance that is specified respectively in section 1 or 2 in Part 1 of Schedule 1 and has been manufactured in or imported into Hong Kong before the effective date; and

(b) the prescribed product is the subject of a contract –

(i) that has been entered into before the effective date for the procurement of the product; and

(ii) under which the product is to be supplied as part of or in connection with the disposition of any specified premises.

2. In this Schedule, “effective date” (生效日期) means the date stated by the Director in an updating notice under section 11A(2)(a)(ii) of this Ordinance as the date on which the new calculation method of the energy efficiency grading of a prescribed product takes effect.”.