

LEGISLATIVE COUNCIL BRIEF

Energy Efficiency (Labelling of Products) Bill

INTRODUCTION

A At the meeting of the Executive Council on 27 March 2007, the Council ADVISED and the Chief Executive ORDERED that the Energy Efficiency (Labelling of Products) Bill, at Annex A, should be introduced into the Legislative Council.

JUSTIFICATIONS

2. Total energy consumption at end-use level in Hong Kong grew at an average rate of 1.2% per annum in the last decade. In 2004, the total electricity consumption in Hong Kong was 39 200 Gigawatt hours (GWh), of which 9 500 GWh (about 24%) were used by household appliances. Significant energy saving will be achieved by the use of energy efficient electrical appliances which help reduce the emission of greenhouse gases and other air pollutants.

B 3. The useful role of implementing mandatory labelling scheme to encourage the use of energy efficient products is well recognized internationally. Over 40 countries, including the Mainland, the United States, European Union, Australia, New Zealand, Canada and South Korea, have introduced mandatory Energy Efficiency Labelling Scheme (EELS) on various types of products (see Annex B).

4. The Electrical and Mechanical Services Department (EMSD) has been running a voluntary EELS since 1995. The market penetration rates of the voluntary EELS vary from around 10% to 75% among different products. While EMSD will continue to promote the voluntary scheme to the public and the trade, significant improvement in market penetration rates cannot be achieved without a mandatory EELS through legislation.

5. We propose to include the following three products in the initial phase of the mandatory EELS -

- (a) refrigerating appliances;
- (b) room air conditioners; and
- (c) compact fluorescent lamps.

The total electricity consumption of these products in Hong Kong is about 6 700 GWh per year, which account for more than 70%^{Note 1} of the annual electricity consumption in the residential sector. They have been covered by the voluntary EELS since the early stages and have the highest market penetration rates.

6. Similar to most of the mandatory EELS overseas, we will implement a self-testing system under which manufacturers or importers of the specified products are required to conduct tests in institutions approved by the Director of Electrical and Mechanical Services (DEMS). These may include an accredited laboratory under the Hong Kong Laboratory Accreditation Scheme or a testing laboratory assessed by a recognized independent certification body. The tests must be carried out in accordance with the codes of practice approved by DEMS. If DEMS is satisfied with the information submitted, he will issue a letter of notification to the manufacturers or importers specifying the reference number assigned to the product model concerned. Manufacturers or importers will be required to attach energy labels in prescribed formats before supplying these products in Hong Kong. After the introduction of the mandatory scheme, all local suppliers (including wholesalers and retailers) cannot supply the three specified products which do not bear the energy labels.

7. EMSD estimates that the energy saving achieved by the voluntary EELS is about 200 GWh per year. With the implementation of the mandatory EELS for the three specified products, an additional electricity saving of 150 GWh per year can be achieved. This amount is equivalent to the annual electricity consumption of 105 000 units of room air conditioners^{Note 2}, or a monetary saving of \$135 million in electricity bill per year. An annual reduction of carbon dioxide emission of 105 000 tonnes will be achieved. We will continue to

^{Note 1} The percentage includes the electricity consumption by refrigerating appliances, room air conditioners and lighting from all types of lamps.

^{Note 2} Assuming each of these room air conditioners has a cooling capacity of 9,000 Btu/hr with an average energy efficiency performance, and runs 1,200 hours per year.

expand the scope of the mandatory EELS to cover other electrical appliances, taking into account the results of the initial phase of the mandatory EELS and the corresponding energy consumption reduction achievement. We will also duly consult the community and the relevant trade on our future expansion proposals.

THE BILL

8. The Energy Efficiency (Labelling of Products) Bill sets out the following main requirements -

- (a) **Part 1 (Clauses 1 to 3)** contains preliminary provisions. In particular, it provides for the application of the Bill to a prescribed product that is specified in Schedule 1;
- (b) **Part 2 (Clauses 4 to 13)** deals with matters relating to the submission of specified information and labelling of prescribed products. Clauses 4 and 5 prohibit the supply of a prescribed product in Hong Kong unless it is of a model the reference number of which is included in the record and bears an energy label. Under clauses 6 to 8, DEMS will assign a reference number to a product model after specified information and specified documents in respect of the model have been submitted to DEMS;
- (c) **Part 3 (Clauses 14 to 20)** empowers DEMS to serve improvement notices and prohibition notices. It also empowers DEMS to remove from the record the reference number of a listed model. It creates an offence for furnishing false information or document;
- (d) **Part 4 (Clauses 21 to 31)** provides for the enforcement powers of authorized officers and the return or disposal of things seized by authorized officers. It also empowers an authorized officer to carry out routine inspection and require testing of prescribed products;
- (e) **Part 5 (Clauses 32 to 39)** contains provisions relating to appeals against the decision of DEMS given under the Bill. It provides for the composition of the appeal board panel and proceedings before the appeal board. It empowers the appeal board to make determination and orders (including orders to give evidence or pay costs);

- (f) **Part 6 (Clauses 40 to 41)** contains provisions relating to code of practice. It empowers DEMS to establish a code of practice to provide practical guidance in respect of the operation of the provisions of the Bill;
- (g) **Part 7 (Clauses 42 to 54)** contains the miscellaneous provisions. It empowers the Secretary for the Environment, Transport and Works (SETW) to make regulations and amend any Schedule by an order published in the Gazette. It also provides for the transitional arrangement of prescribed products that have been registered under the voluntary EELS;
- (h) **Schedule 1** lists out the products that are prescribed products in the legislation; and
- (i) **Schedule 2** sets out the specification of energy labels to be displayed on prescribed products.

LEGISLATIVE TIMETABLE

9. The legislative timetable is as follow -

Publication in the Gazette	4 April 2007
First Reading and commencement of Second Reading debate	18 April 2007
Resumption of Second Reading debate, Committee Stage and Third Reading	to be notified

IMPLICATIONS OF THE PROPOSAL

10. The proposal has sustainability, environmental, economic, financial and civil service implications as set out at Annex C.

11. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Bill does not contain any express binding effect provision.

PUBLIC CONSULTATION

12. A three-month public consultation on the proposed

mandatory EELS was launched in July 2005. During the consultation period, meetings with the Advisory Council on the Environment, trade associations, product suppliers and other stakeholders were arranged to solicit views on the proposed scheme. The vast majority of views received expressed support for the proposed mandatory EELS and agreed that the scheme was in the correct direction for achieving efficient use of energy.

13. The Panel on Environmental Affairs of the Legislative Council was consulted in June 2006. Members did not raise objection to the proposed mandatory EELS. Some Members shared the views of the trade that the scheme could be simplified by dispensing with the need for registration. We further studied similar mandatory EELS implemented in overseas countries and found that most of the overseas EELS (including the United States, Canada and member states of the European Union) adopt a self-testing system with no requirement on product registration.

14. To address the concerns expressed by the trade, we have set up two task forces with the relevant trade associations and suppliers to work out the implementation details of the scheme. In view of the established international practice, we have decided to adopt a similar self-testing system in Hong Kong. Members of the two task forces have indicated their support to the implementation of the proposed self-testing scheme. We have also consulted the Retail Task Force of the Business Facilitation Advisory Committee and the Energy Efficiency and Conservation Subcommittee of the Energy Advisory Committee. They both indicated their in-principle support for the implementation of the proposal.

PUBLICITY

15. A press release will be issued on 30 March 2007 and a spokesman will also be available to handle enquiries.

BACKGROUND

16. EMSD has been operating a voluntary EELS for household and office appliances and vehicles since 1995. The scheme aims to promote energy saving by informing potential customers of the energy performance level of the products. It also intends to encourage product suppliers to make available more energy-efficient products to meet customers' demand. To date, the voluntary scheme covers a

total of 18 types of energy consuming products^{Note 3}.

ENQUIRIES

17. For any enquiries relating to this Brief, please contact Mr Eric Chan, Assistant Director of Environmental Protection (Conservation) at 2594 6036.

Environmental Protection Department
30 March 2007

^{Note 3} The 18 types of products are: refrigerating appliances, room air conditioners, washing machines, electric clothes dryers, compact fluorescent lamps, electric storage water heaters, electric rice cookers, dehumidifiers, television sets, electronic ballasts, domestic gas instantaneous water heaters, photocopiers, multifunction devices, laser printers, computers, LCD monitors, fax machines and petrol passenger cars.

ENERGY EFFICIENCY (LABELLING OF PRODUCTS) BILL

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A BILL

To

Require the provision by suppliers of information, etc. relating to specified energy-using products and the display of energy labels on such products and to provide for related matters.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title and commencement

(1) This Ordinance may be cited as the Energy Efficiency (Labelling of Products) Ordinance.

(2) Subject to subsection (3), this Ordinance shall come into operation on the day on which this Ordinance is published in the Gazette.

(3) Sections 4, 5 and 15(1)(a) and (b) shall come into operation 18 months after the day on which this Ordinance is published in the Gazette.

2. Interpretation

In this Ordinance, unless the context otherwise requires –

“appeal board” (上訴委員會) means an appeal board appointed under section 35;

“approved code of practice” (經核准實務守則) means a code of practice approved under section 40;

“code of practice” (實務守則) includes –

- (a) a standard;
- (b) a specification; and
- (c) any other documentary form of practical guidance;

“compact fluorescent lamp” (緊湊型熒光燈) means a compact fluorescent lamp within the meaning of Schedule 1;

“Director” (署長) means the Director of Electrical and Mechanical Services;

“disposition” (處置), in relation to any specified premises, includes a sale of, a lease of, and a licence and permission to occupy the specified premises;

“energy label” (能源標籤), in relation to a prescribed product, means a label that contains information about the energy efficiency and performance characteristics of the product;

“family of models” (型號系列) means a range of models of a prescribed product where in each model –

- (a) the physical characteristics that affect the energy efficiency are the same; and
- (b) the output, energy consumption, energy efficiency and performance characteristics are the same;

“full test report” (全面測試報告), in relation to a compact fluorescent lamp, means a test report that presents the results of a test carried out –

- (a) to find out all aspects of the lamp’s energy efficiency and performance characteristics specified in the approved code of practice; and
- (b) to a standard specified in the approved code of practice;

“function” (職能) includes duties and powers;

“improvement notice” (敦促改善通知書) means a notice served by the Director under section 14;

“interim test report” (中期測試報告), in relation to a compact fluorescent lamp, means a test report that presents the results of a test carried out –

- (a) to find out certain aspects of the lamp’s energy efficiency and performance characteristics specified in the approved code of practice; and
- (b) to a standard specified in the approved code of practice;

“letter of notification” (通知信) means a letter issued by the Director under section 8;

“listed model” (表列型號), in relation to a product model, means a model the reference number of which is included in the record kept under section 13;

“panel member” (委員團成員) means a person appointed to the appeal board panel under section 34;

“prescribed product” (訂明產品) means a product specified in Part 1 of Schedule 1;

“product model” (產品型號) means a model of a prescribed product;

“progress test report” (進展測試報告), in relation to a compact fluorescent lamp, means a test report –

- (a) that is submitted together with or after the submission of an interim test report; and
- (b) that presents the results of a test carried out –
 - (i) to find out the aspects of the lamp’s energy efficiency and performance characteristics that have not been covered by the interim test report and have been specified in the approved code of practice; and
 - (ii) to a standard specified in the approved code of practice;

“prohibition notice” (禁止通知書) means a notice served by the Director under section 15;

“record” (紀錄冊) means the record kept under section 13;

“reference number” (參考編號) means a number assigned to a product model by the Director under section 8;

“relevant standard” (有關標準), in relation to a prescribed product, means the standard for energy efficiency and performance characteristics specified for that product in the approved code of practice;

“second-hand product” (二手產品) means a prescribed product that has previously been used by a consumer;

“Secretary” (局長) means the Secretary for the Environment, Transport and Works;

“specified document” (指明文件) means a document within the meaning of section 6;

“specified form” (指明表格), in relation to any purpose under this Ordinance, means the form specified for that purpose by the Director under section 51;

“specified information” (指明資料) means the information within the meaning of section 6;

“specified person” (指明人士), in relation to a product model, means a person who has submitted the specified information in respect of the model under section 6;

“specified premises” (指明處所) means newly completed premises, whether domestic or not –

- (a) subject to paragraph (b), the first disposition of which has not been made; or
- (b) if the first occupation of which is made before the first disposition, the first occupation of which has not been made;

“supply” (供應), in relation to the supply of a prescribed product, means –

- (a) to sell or hire out the prescribed product;
- (b) to offer, keep or exhibit the prescribed product or any part of the product for sale or for hiring out;
- (c) to exchange or dispose of the prescribed product for consideration;
- (d) to transmit, convey or deliver the prescribed product in pursuance of –
 - (i) a sale;
 - (ii) a hiring out; or
 - (iii) an exchange or disposal for consideration; or

- (e) for commercial purposes, to give the prescribed product as a prize or to make a gift of such a product;

“test report” (測試報告), in relation to a prescribed product, means a report that presents the results of a test carried out –

- (a) to find out the product’s energy efficiency and performance characteristics specified in the approved code of practice; and
- (b) to a standard specified in the approved code of practice.

3. Application

(1) Subject to subsection (2), this Ordinance applies to a prescribed product that is supplied in Hong Kong, including a prescribed product supplied as part of or in connection with the disposition of any specified premises.

(2) This Ordinance does not apply to a prescribed product that is –

- (a) under trans-shipment or in transit through Hong Kong;
- (b) manufactured in Hong Kong for export;
- (c) supplied as scrap;
- (d) supplied in a place other than Hong Kong under a sale agreement which is entered into in Hong Kong;
- (e) a second-hand product; or
- (f) supplied as part of or in connection with the disposition of any premises other than specified premises.

PART 2

LABELLING OF PRESCRIBED PRODUCTS AND SUBMISSION OF INFORMATION AND DOCUMENTS

Division 1 - Labelling of Prescribed Products

4. Prohibition on supply of prescribed products by manufacturer or importer without reference number and energy label

(1) A manufacturer or importer of a prescribed product shall not supply the prescribed product unless that product –

- (a) is a product of a listed model with a reference number that –
 - (i) is assigned in the name of the manufacturer or importer; and
 - (ii) is included in the record; and
- (b) bears an energy label that –
 - (i) complies with the requirements specified in Schedule 2 for that prescribed product;
 - (ii) contains 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; and
 - (iii) is attached or affixed to the prescribed product or otherwise displayed in accordance with the requirements specified in Schedule 2 for that prescribed product.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 6.

5. Prohibition on supply of prescribed products by person other than manufacturer or importer without reference number and energy label

(1) A person who is not a manufacturer or importer of a prescribed product shall not supply the prescribed product unless the person has ensured that the product –

- (a) is a product of a listed model with a reference number that is included in the record; and
- (b) bears an energy label that –
 - (i) complies with the requirements specified in Schedule 2 for that prescribed product;
 - (ii) contains the specified information submitted 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; and
 - (iii) is attached or affixed to the prescribed product or otherwise displayed in accordance with the requirements specified in Schedule 2 for that prescribed product.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 6.

Division 2 - Submission of Information and Documents

6. Submission of specified information and specified documents for product model

(1) A person who wishes a reference number to be assigned to a product model in his name is to submit the specified information and specified documents in respect of the product model to the Director in accordance with this section.

(2) The specified information is to be submitted in the specified form.

(3) For the purpose of subsection (1), “specified information” (指明資料) means –

- (a) the name and business address of the person who submits the specified information;
- (b) the particulars of the product model, including but not limited to –
 - (i) its brand name;
 - (ii) its model name; and
 - (iii) its energy efficiency and performance characteristics as declared by the person who submits the specified information;
 - (iv) its energy efficiency and performance characteristics as measured by tests carried out by an institution approved by the Director;
- (c) the name and particulars of the institution that carried out the tests; and
- (d) other information, apart from the reference number, that will appear on the energy label for the product model.

(4) For the purpose of subsection (1), “specified documents” (指明文件) means –

- (a) a test report, interim test report, progress test report or full test report for the product model that is –
 - (i) prepared in accordance with the requirements specified in the approved code of practice; and
 - (ii) issued or certified by the institution that carried out the tests referred to in subsection (3)(b)(iv);
- (b) a document showing the standing of that institution;

- (c) a document showing the calculation of the energy efficiency grading in accordance with the method specified in the approved code of practice; and
- (d) any other document that shows the particulars of product model.

(5) The test report, interim test report, progress test report or full test report is to contain the following information –

- (a) the name and particulars of the institution that carried out the test;
- (b) the date of the test and the report;
- (c) a description of the tests carried out, the test requirements and procedures as specified in the approved code of practice;
- (d) the energy efficiency and performance characteristics of the product model as measured by the tests;
- (e) the test results showing that the product model being tested conforms with the relevant standard; and
- (f) other results of the test.

(6) The specified information is to be submitted together with the specified documents.

(7) The specified person may include in the same submission a family of models, and in such a case, the person is to submit one test report that is applicable to all the members of the family.

(8) If the submission is related to a product model that is a member of a family of models, and specified information and specified documents of any other member of that family have previously been submitted in the name of the specified person, subsections (1), (2), (3), (4), (5) and (6) apply to that submission except that the person must furnish the model name and reference number of those other members of the family.

(9) The Director may require the specified person to furnish any further information or produce any additional document that the Director considers necessary in connection with the submission.

7. Additional documents to be submitted for compact fluorescent lamps

If a specified person has under section 6 submitted an interim test report in respect of a compact fluorescent lamp, the person is to submit progress test reports to the Director at intervals of not exceeding 6 months after the date of the submission of the interim test report until the person submits a full test report.

8. Director may assign reference number to product models

(1) If the Director is satisfied that the specified information and specified documents in respect of a product model have been submitted as required under section 6, the Director shall assign a reference number to the model in the name of the specified person and issue a letter of notification informing the person of that reference number.

(2) If the Director –

- (a) is satisfied that any specified information or a specified document in respect of a product model is not submitted as required under section 6; or
- (b) has reasonable grounds to believe that the specified information or a specified document so submitted is false or misleading,

the Director may refuse to assign a reference number to the model.

(3) If the Director refuses to assign a reference number to a product model, the Director is to notify the relevant specified person in writing of that decision and the reasons for the refusal.

(4) The Director may assign different reference numbers to different specified persons who submit specified information and specified documents in respect of the same product model.

9. Notification of change in specified information, etc. submitted

(1) A specified person shall, within 21 days after any change in the specified information or a specified document submitted to the Director under section 6, notify the Director in writing of the change.

(2) If, after a specified person has submitted the specified information and specified documents in respect of a product model (“first-mentioned model”) under section 6, the model has been modified (“modified model”) to such an extent that its energy efficiency and performance characteristics differ from that submitted, sections 4, 5, 6, 7 and 8 apply to the modified model from the date of modification, as if it were a new model different from the first-mentioned model, and the specified person is to obtain a new reference number for the modified model.

(3) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

(4) The Director, after receiving a notification under subsection (1), is to make such amendment in the record as he considers necessary to record the changes.

10. Updating of product information

(1) Subject to subsection (6), a specified person who has submitted the specified information in respect of a product model under section 6 shall submit to the Director up-to-date information, in accordance with this section, in respect of that model.

(2) The information is to include –

- (a) the reference number of the model;
- (b) the particulars of the model;

- (c) whether the model is still available in the market; and
 - (d) whether the model has been modified, and if so, whether the modification changes the energy efficiency and performance characteristics of the model.
- (3) The information is to be submitted in the specified form.
- (4) The information is to be submitted at intervals not exceeding 5 years from the date of the last submission.
- (5) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.
- (6) If a specified person has notified the Director that a listed model is no longer available in the market, subsection (1) ceases to apply to that person in respect of that model after the notification.
- (7) The Director, after receiving the information under subsection (1), is to make such amendment in the record as he considers necessary to record the changes.

11. Duty of specified person to whom reference number has been assigned

- (1) After a reference number has been assigned to a product model in the name of a specified person and included in the record, the specified person shall ensure that the prescribed products of the listed model conform with the specified information and specified documents submitted to the Director by the specified person or, if the specified information or a specified document has been amended pursuant to section 9 or 10, the specified information or specified document as read subject to section 9 or 10.
- (2) The specified person referred to in subsection (1) shall ensure that the information set out on an energy label on the prescribed product of the listed model conforms with the specified information submitted to the Director by the specified person 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.

(3) The specified person referred to in subsection (1) shall not engage in any conduct that deceives or misleads or is likely to deceive or mislead another person as to –

- (a) the physical characteristics of any prescribed product of the listed model that affect its energy efficiency; or
- (b) the energy efficiency or performance characteristics of any prescribed product of the listed model.

(4) If a specified person contravenes subsection (1), (2) or (3) in respect of a listed model, the Director may –

- (a) serve an improvement notice under section 14; or
- (b) remove the reference number of that model from the record under section 16.

12. Unauthorized use of energy label

(1) A person shall not, with intent to deceive or mislead, attach, affix or use in any other manner in connection with a product which is not a product of a listed model, an energy label so as to deceive or mislead another person into believing that the product is a product of a listed model.

(2) A person shall not, with intent to deceive or mislead, attach, affix or use in any other manner in connection with a product (whether or not it is a product of a listed model), an energy label so as to deceive or mislead another person into believing that the product conforms with the information on the energy label.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 6.

13. Director to keep record of listed models

(1) The Director shall keep a record of listed models of prescribed products.

(2) The record is to contain in relation to each listed model –

- (a) the name of the specified person;

- (b) information as to its energy efficiency and performance characteristics;
- (c) its reference number;
- (d) any change in the specified information or a specified document notified under section 9;
- (e) any up-to-date information submitted under section 10; and
- (f) such other particulars as the Director considers appropriate.

(3) The record may be kept in a form the Director considers appropriate, including in a form other than a documentary form as long as the information recorded under subsection (2) is capable of being reproduced in a legible form.

(4) For the purpose of enabling any member of the public to ascertain whether a prescribed product is of a listed model under this Ordinance, the Director shall make the record available for public inspection at all reasonable times and free of charge.

- (5) At all reasonable times, a member of the public may –
- (a) inspect the record; and
 - (b) obtain a copy of an entry in or extract of the record.

PART 3

IMPROVEMENT NOTICES, PROHIBITION NOTICES AND REMOVAL OF REFERENCE NUMBER

14. Power of Director to serve improvement notice

(1) The Director may serve an improvement notice on a person if he is of the opinion that the person –

- (a) is contravening a requirement under this Ordinance; or

- (b) has contravened such a requirement in circumstances that make it likely that the contravention will continue or be repeated.
- (2) In an improvement notice, the Director is to –
 - (a) state the Director’s opinion under subsection (1);
 - (b) specify the requirement that is being or has been contravened; and
 - (c) direct the person to remedy, within a period specified in the notice (“remedy period”), the contravention or the matters occasioning it.
- (3) The remedy period is to be longer than the period for appealing against the Director’s decision or direction under section 33.
- (4) An improvement notice may include directions as to the remedial measures to be taken and those directions may be framed –
 - (a) wholly or partly by reference to any approved code of practice; and
 - (b) so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matters.
- (5) If remedial measures are required to be taken in respect of an energy label (including the manner of attaching or affixing the label to a prescribed product), the Director may direct the person on whom the notice is served to take remedial measures in respect of all the energy labels (including labels attached or affixed to prescribed products that have already been supplied to, and are still in the possession of, other suppliers).
- (6) An improvement notice or a direction specified in an improvement notice takes effect immediately or, if a later date is specified in the notice, on that date.

(7) A person who contravenes any direction specified in an improvement notice (including any such direction as modified after an appeal) commits an offence and is liable –

- (a) on conviction to a fine at level 4; and
- (b) in the case of a continuing offence, to a further fine of \$1,000 for every day during which the offence continues.

15. Power of Director to serve prohibition notice

(1) The Director may serve a prohibition notice on a person who is supplying a prescribed product prohibiting that person from supplying the prescribed product, if he reasonably believes that –

- (a) the product is not a product of a listed model;
- (b) its energy label is not attached or affixed in accordance with this Ordinance; or
- (c) it bears an energy label containing false or misleading information about the energy efficiency or performance characteristics of the product.

(2) A prohibition notice is to specify the date on which the prohibition takes effect.

(3) If the Director is satisfied that the matter constituting the basis on which a prohibition notice is served on a person has been rectified, the Director may serve on that person a cancellation notice that cancels the prohibition notice.

(4) A cancellation notice is to specify the date on which the cancellation takes effect.

(5) A person who fails to comply with a prohibition notice commits an offence and is liable –

- (a) on conviction to a fine at level 6; and
- (b) in the case of a continuing offence, to a further fine of \$5,000 for every day during which the offence continues.

16. Removal of reference number of listed model from record

(1) If a reference number has been assigned to a product model in the name of a specified person and included in the record, the Director may, by notice served on the specified person, remove from the record the reference number, if he has reasonable grounds to believe that –

- (a) the prescribed product of the listed model does not conform with the specified information or a specified document submitted to the Director or, if the specified information or a specified document has been amended pursuant to section 9 or 10, the specified information or specified document as read subject to section 9 or 10;
- (b) the information set out on an energy label on the prescribed product of the listed model does not conform with the specified information submitted to the Director 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;
- (c) after submission of the specified information (whether or not such information has been amended pursuant to section 9 or 10), the listed model has been modified to such an extent that its energy efficiency and performance characteristics differ from that submitted;
- (d) the specified person has provided false or misleading information in the submission of the specified information 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;

- (e) the specified person engages in any conduct that deceives or misleads or is likely to deceive or mislead another person as to –
 - (i) the physical characteristics of any prescribed product of a listed model that affect its energy efficiency; or
 - (ii) the energy efficiency or performance characteristics of any prescribed product of a listed model; or
 - (f) the specified person has not complied with the requirement under section 7 to submit any progress test report or full test report in respect of a compact fluorescent lamp.
- (2) If the Director –
- (a) has reasonable grounds to believe that one test report or, in the case of a compact fluorescent lamp, one interim test report, applicable to a family of models has been submitted in the name of a specified person; and
 - (b) has under subsection (1)(a) or (1)(f) removed from the record the reference number assigned to a member of that family,

the Director may, by notice served on a specified person, remove from the record the reference numbers assigned in the name of that person to the other members of that family.

(3) A notice served under subsection (1) or (2) is to specify the date on which the removal takes effect.

17. Procedure before removing reference number from record

(1) If the Director is of the opinion that there are reasonable grounds to remove from the record a reference number assigned to a listed model in the

name of a specified person under section 16, the Director must, before the removal, serve a notice in writing on the specified person.

- (2) The notice is to –
 - (a) state the Director’s opinion under subsection (1);
 - (b) state the grounds for the proposed removal;
 - (c) outline the facts and circumstances that form the basis for the grounds; and
 - (d) invite the specified person to make written representation, within 14 days after the Director has served the notice, why the reference number should not be removed from the record.

(3) If, after considering all written representations made by the specified person within the specified period, the Director still considers that there are reasonable grounds to remove from the record the reference number assigned to the listed model, the Director may remove the number from the record under section 16.

18. Specified person to give notice to other suppliers after reference number has been removed from record

(1) Within 14 days after the Director has served on a specified person a notice of the removal of a reference number under section 16, the specified person must give a notice in writing of the removal to each person to whom the specified person has supplied a prescribed product of the listed model.

(2) Subsection (1) does not require the specified person to give a notice to a person to whom the prescribed product –

- (a) had been sold by retail; or
- (b) had been supplied at least 1 year before the removal of the reference number from the record.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

19. Power to obtain information

(1) If the Director has reasonable grounds to suspect that a provision of this Ordinance has been contravened in relation to a prescribed product, the Director may serve a notice on a person whom he has reasonable grounds to believe to have information or document relating to the contravention, requiring the person –

- (a) to furnish to the Director, within a period specified in the notice, information relating to –
 - (i) the origin of the prescribed product;
 - (ii) the person to whom the product has been supplied; and
 - (iii) the energy efficiency and performance characteristics of the product; or
- (b) to produce to the Director, at a time and place specified in the notice, documents in the person's possession or control relating to –
 - (i) the origin of the prescribed product;
 - (ii) the person to whom the product has been supplied; and
 - (iii) the energy efficiency and performance characteristics of the product.

(2) A person who, without reasonable excuse, fails to comply with any requirement under subsection (1) commits an offence and is liable on conviction to a fine at level 5.

20. False information, etc.

(1) A person who, in purported compliance with a requirement under section 6, 7, 9, 10 or 19, furnishes any information or produces any document which the person knows or ought reasonably to have known was false or misleading in a material respect commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

PART 4

ENFORCEMENT POWERS, ETC.

21. Appointment of authorized officers

The Director may in writing appoint any public officer to be an authorized officer for the purpose of this Ordinance.

22. Production of proof of identity

Before or on exercising a power conferred by this Part, an authorized officer shall, if so requested, produce written evidence of his identity.

23. Power to enter premises for routine inspection

(1) For the purpose of ascertaining whether this Ordinance has been or is being complied with, an authorized officer may, if he reasonably believes that there is a prescribed product in –

- (a) subject to paragraph (b), any premises except domestic premises; or
- (b) any specified premises, whether or not domestic premises,

enter at any reasonable time such premises.

(2) After entering any premises under subsection (1), an authorized officer may, at the premises, exercise any or all of the following powers –

- (a) require the production of, inspect and examine any prescribed product;
- (b) examine any process or procedure in connection with the testing of prescribed products;
- (c) require any person carrying on or employed in connection with, a trade or business to produce –

- (i) any letter of notification issued in respect of prescribed products;
 - (ii) any book or document relating to prescribed products; or
 - (iii) any other document or information or any other thing that he reasonably believes to be relevant to an offence or a contravention of a requirement under this Ordinance;
- (d) take and make copies of any letter, book, document or information referred to in paragraph (c); and
- (e) if the officer has reasonable grounds to suspect that, in relation to a prescribed product –
 - (i) a requirement under this Ordinance has been contravened; or
 - (ii) an offence under this Ordinance has been committed,
 seize and detain the prescribed product or anything that is likely to be of value (whether by itself or together with anything else) to the investigation of the contravention or offence.
- (3) A person who, without reasonable excuse –
 - (a) fails to comply with a requirement made under subsection (2)(a) or (c); or
 - (b) obstructs an authorized officer in the exercise of any power conferred under subsection (1) or (2),
 commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

24. Power to enter premises with warrant under section 25 in other cases

(1) Where a warrant has been issued under section 25 in respect of any premises (including domestic premises), an authorized officer may enter the premises and exercise any or all of the following powers –

- (a) stop and search any person found at the premises whom the officer reasonably believes to have committed or is committing an offence under section 4, 5, 12 or 20;
- (b) require the production of, inspect and examine any prescribed product;
- (c) examine any process or procedure in connection with the testing of prescribed products;
- (d) require any person carrying on or employed in connection with, a trade or business to produce –
 - (i) any letter of notification issued in respect of prescribed products;
 - (ii) any book or document relating to prescribed products; or
 - (iii) any other document or information or any other thing that he reasonably believes to be relevant to an offence or a contravention of a requirement under this Ordinance;
- (e) take and make copies of any letter, book, document or information referred to in paragraph (d); and
- (f) if the officer has reasonable grounds to suspect that, in relation to a prescribed product –
 - (i) a requirement under this Ordinance has been contravened; or
 - (ii) an offence under this Ordinance has been committed,

search, seize and detain the prescribed product or anything that is likely to be of value (whether by itself or together with anything else) to the investigation of the contravention or offence.

- (2) A person who, without reasonable excuse –
 - (a) fails to comply with a requirement made under subsection (1)(b) or (d); or
 - (b) obstructs an authorized officer in the exercise of any power conferred under subsection (1),

commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

25. Warrant to be obtained for exercising power under section 24

(1) A court may issue a warrant in respect of any premises (including domestic premises) if it is satisfied by information on oath that there are reasonable grounds for believing that –

- (a) an offence under section 4, 5, 12 or 20 has been or is being committed at the premises; or
- (b) there is or may be at the premises anything that is or contains, or is likely to be or contain, evidence of the commission of an offence under section 4, 5, 12 or 20.

(2) A warrant issued under subsection (1) may authorize an authorized officer to enter, by reasonable force if necessary, and search the premises specified in the information.

(3) A warrant issued under subsection (1) continues in force until the purpose for which the entry is necessary has been satisfied.

- (4) In this section, “court” (法院) includes a magistrate.

26. Power of detention

(1) An authorized officer may, during the time when he remains in the premises entered under section 24 or such shorter period as the officer considers appropriate, detain any person found on such premises where –

- (a) after inquiry, the officer reasonably believes the person is connected with the purpose of the entry; and
- (b) it is necessary to detain the person in order to be able to adequately perform the functions under section 24.

(2) A person who, without reasonable excuse, obstructs an authorized officer in the exercise of any power conferred under subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

27. Power to require testing

(1) If the Director has reasonable grounds to suspect that a prescribed product does not conform with the test results submitted to the Director by a specified person, the Director may serve a notice on the specified person requiring the person to cause the product to be tested in such manner as the Director may specify in the notice.

(2) All costs relating to the required test must be borne by the specified person regardless of the results of the test.

(3) A person who fails to comply with a requirement made under subsection (1) commits an offence and is liable on conviction to a fine at level 6.

28. Return of prescribed product or things after investigation

(1) Where a prescribed product or anything has been seized from a person (“person in possession”) by an authorized officer under section 23(2)(e) or 24(1)(f) for the purpose of investigation, the Director, after the prescribed product or the thing seized is not, or is no longer, required for the purposes of the

investigation or related proceedings under this Ordinance, is to serve a notice in writing on –

- (a) its owner; or
- (b) the person in possession,

requiring the owner or the person in possession to collect the product or thing within 30 days of service of the notice.

(2) If the prescribed product or the thing seized from a person (“person in possession”) is not collected within 30 days of service of the notice under subsection (1), the Director is to serve on its owner or the person in possession a further notice in writing which states that unless he collects the product or thing within 30 days of service of the notice on him, the product or thing will be disposed of in any way as the Director considers appropriate.

(3) If the prescribed product or the thing seized is not collected within 30 days of service of the notice under subsection (2), the product or thing may be disposed of in any way as the Director considers appropriate.

29. Persons assisting authorized officer

In performing any function under this Part, an authorized officer may be accompanied by any other person and take any equipment to assist the officer in the performance of his function.

30. Director’s power to publicize non-compliances

- (1) If the Director –
 - (a) has reasonable grounds to believe that a supplier of a prescribed product does not comply with the requirement under section 4, 5, 6, 7, 9, 10, 11 or 12;
 - (b) has served a prohibition notice on a supplier of a prescribed product under section 15; or

- (c) has removed from the record the reference number assigned to a listed model of a prescribed product under section 16,

the Director may take the action specified in subsection (2).

- (2) The action that the Director may take under subsection (1) is –

- (a) to serve a notice on the supplier of the prescribed product requiring the supplier, at his own expense and by his own arrangement to publish, in the form and manner and on such occasions as may be specified in the notice, a statement that –

- (i) the prescribed product has not complied with the requirement;
- (ii) a prohibition notice has been so served; or
- (iii) the reference number has been so removed;

- (b) to publish, in the form and manner as he considers appropriate, a statement that –

- (i) the prescribed product has not complied with the requirement;
- (ii) a prohibition notice has been so served; or
- (iii) the reference number has been so removed.

(3) If a person on whom a notice is served under subsection (2)(a) fails to comply with the notice, he commits an offence and is liable on conviction to a fine at level 6.

(4) Without prejudice to subsection (3), if a person on whom a notice is served under subsection (2)(a) fails to comply with the notice, the Director may –

- (a) publish the required statement on behalf of the person; and
- (b) recover from the person the costs of publication as a civil debt due to the Government.

31. Compensation for seizure and detention of products

(1) Where a prescribed product has been seized or detained by an authorized officer under section 23 or 24, the Government is, subject to this section, liable to compensate the owner of the prescribed product for any loss suffered by the owner as a result of the seizure or detention or by reason that the prescribed product, during the detention, is lost or damaged.

(2) The owner is not entitled to compensation for the loss if –

- (a) the owner is convicted of an offence under this Ordinance committed in relation to the prescribed product; or
- (b) the District Court or Small Claims Tribunal is satisfied during proceedings commenced by an owner for compensation under this section that –
 - (i) the prescribed product did not comply with a requirement under this Ordinance; or
 - (ii) the owner was reasonably required to comply with a prohibition notice served in relation to the prescribed product and the owner has failed to comply with the notice.

(3) A claim for compensation under this section may be made –

- (a) in the Small Claims Tribunal, for claims up to the maximum jurisdiction of the Tribunal; or
- (b) in the District Court, irrespective of the amount claimed.

PART 5

APPEALS

32. Appeal to appeal board

(1) A person who is aggrieved by –

- (a) a decision of the Director to refuse to issue a letter of notification or to assign a reference number under section 8;
- (b) a decision of the Director under section 14 to serve an improvement notice;
- (c) a direction specified by the Director in an improvement notice under section 14;
- (d) a decision of the Director under section 15 to serve a prohibition notice; or
- (e) a decision of the Director under section 16 to remove from the record a reference number,

may appeal to the appeal board against the decision or direction.

(2) An appeal under subsection (1) does not suspend the Director's decision or direction that is the subject of the appeal unless he decides otherwise.

33. How an appeal is to be commenced

(1) An appellant is to commence an appeal by lodging a notice of appeal in writing with the Director.

(2) The notice of appeal is to be lodged within –

- (a) 14 days after the date on which the appellant was notified of the decision or direction appealed against; or
- (b) such longer period as the Director may allow.

(3) The notice of appeal is to –

- (a) set out the grounds of the appeal and the facts relied on;
- (b) be accompanied by a copy of any document the appellant intends to rely on; and
- (c) include particulars of any witness the appellant intends to call at the hearing.

(4) When the Director receives a notice of appeal, the Director shall deliver it to the Secretary as soon as reasonably practicable.

34. Appeal board panel

- (1) The Secretary is to appoint an appeal board panel.
- (2) The panel appointed under subsection (1) is to consist of the following numbers and categories of persons –
 - (a) not more than 5 persons who are corporate members of the Hong Kong Institution of Engineers;
 - (b) not more than 5 persons from tertiary educational institutions;
 - (c) not more than 5 persons from organizations which, in the opinion of the Secretary, represent the interests of manufacturers, importers or other suppliers of energy-using products; and
 - (d) not more than 5 persons, each of whom, in the opinion of the Secretary, represents the interests of consumers of energy-using products.
- (3) A public officer is not eligible for appointment to the appeal board panel.
- (4) The Secretary is to give notice in the Gazette of the appointment of any panel member.
- (5) A panel member is to be appointed for a term of 3 years and may be reappointed at the end of a term.
- (6) A panel member may resign by notice in writing to the Secretary.
- (7) The Secretary may terminate the appointment of a panel member if the Secretary is satisfied that the member –
 - (a) has become a public officer;
 - (b) has become bankrupt or has entered into a voluntary arrangement within the meaning of section 2 of the Bankruptcy Ordinance (Cap. 6) with his creditors;

- (c) is incapacitated by physical or mental illness;
- (d) has ceased to be of the capacity by virtue of which he was appointed; or
- (e) is otherwise unable or unfit to perform the functions of a member.

(8) The Secretary is to give notice in the Gazette of the termination of an appointment of a panel member, and upon such notification the office is to become vacant.

35. Appeal board

(1) Within 21 days after receiving a notice of appeal delivered by the Director under section 33, the Secretary shall appoint from among the panel members an appeal board to hear the appeal.

(2) The appeal board is to consist of 5 members, at least one from each category of panel member.

(3) The members of the appeal board are to elect a chairman from among themselves to preside at the hearing of the appeal.

(4) The quorum for a meeting of an appeal board is 4 members.

36. Remuneration of member of appeal board

The remuneration, if any, of the chairman and a member of an appeal board is to be paid at a rate that the Financial Secretary determines.

37. Proceedings before appeal board

(1) The chairman shall notify the appellant of the time and place of the hearing of the appeal.

(2) The appellant and the Director may be represented by a legal representative or an agent at any proceedings before the appeal board.

(3) The appellant and the Director may adduce evidence at such proceedings.

(4) A legal adviser may be present at such proceedings to advise the appeal board on any matter.

38. Determination of appeal

(1) The appeal board may, by a notice signed by the chairman –

- (a) order a person to attend before the board and give evidence; or
- (b) order a person to produce documents.

(2) If the appeal board reasonably believes that a prescribed product is relevant for the purpose of the appeal, the appeal board may, by a notice signed by the chairman, authorize a person to inspect the prescribed product and for that purpose authorize the person to enter –

- (a) subject to paragraph (b), any premises except domestic premises; or
- (b) any specified premises, whether or not domestic premises,

where the prescribed product is supplied.

(3) The appeal board may –

- (a) confirm, vary or revoke the Director's decision or direction; or
- (b) substitute its own decision or direction for the Director's decision or direction.

(4) The appeal board may make any order it thinks fit with regard to the payment of costs of the proceedings under this section and the costs of the Director or of any person by whom the proceedings are brought.

(5) The appeal board shall notify the appellant and the Director of its decision and the reasons for it.

(6) The costs awarded or imposed under this section are recoverable as a civil debt due to the Government.

(7) A person who, without reasonable excuse, fails to comply with an order under subsection (1)(a) or (b) commits an offence and is liable on conviction to a fine at level 5.

(8) Subject to this Ordinance, an appeal board may determine its own procedure.

39. Majority decision

(1) The determination under section 38 by the appeal board shall be that of the majority of the members of the appeal board who may take part in the determination of the appeal, including the chairman.

(2) In the case of an equality of votes, the chairman shall have a casting as well as a deliberative vote.

PART 6

CODE OF PRACTICE

40. Issue of codes of practice

(1) For the purpose of providing practical guidance in respect of any requirement under this Ordinance, the Director may –

- (a) approve and issue such codes of practice (whether prepared by him or not) as in his opinion are suitable for that purpose; and
- (b) approve such codes of practice issued or proposed to be issued otherwise than by him as in his opinion are suitable for that purpose.

(2) Where a code of practice is approved under subsection (1), the Director shall, by notice published in the Gazette –

- (a) identify the code concerned and specify the date on which his approval is to take effect; and
- (b) specify for which of the requirements under this Ordinance the code is so approved.

(3) The Director may –

- (a) from time to time revise the whole or any part of any code of practice prepared by him under this section; and
- (b) approve any revision or proposed revision of the whole or any part of any code of practice for the time being issued otherwise than by him and approved under this section.

(4) Subsection (2) applies, with the necessary modifications, in relation to the approval of any revision under subsection (3) as they apply in relation to the approval of a code of practice under subsection (1).

(5) The Director may at any time withdraw his approval in respect of any code of practice approved under this section.

(6) Where an approval in respect of a code of practice is withdrawn under subsection (5), the Director shall, by notice published in the Gazette –

- (a) identify the code concerned; and
- (b) specify the date on which his approval of the code is to cease to have effect.

(7) References in this Ordinance to an approved code of practice are references to that code as it has effect for the time being by virtue of any revision of the whole or any part of it approved under this section.

(8) The power of the Director under subsection (1)(b) to approve a code of practice issued or proposed to be issued otherwise than by him includes the power to approve a part of such a code and, accordingly, in this Ordinance “code of practice” (實務守則) may be read as including a part of such a code.

41. Use of approved code of practice in proceedings under this Ordinance

(1) A failure on the part of any person to observe any provision of an approved code of practice does not of itself render the person liable to any civil or criminal proceedings.

(2) However, if, in any legal proceedings, the court is satisfied that a provision of an approved code of practice is relevant to determining a matter that is in issue in the proceedings –

- (a) the code of practice is admissible in evidence in the proceedings; and
- (b) proof that the person contravened or did not contravene a relevant provision of the code of practice may be relied on by any party to the proceedings as tending to establish or negate that matter.

(3) In any legal proceedings under this Ordinance, an approved code of practice which appears to the court to be the subject of a notice under section 40(2) is taken to be the subject of such notice in the absence of evidence to the contrary.

(4) In this section, “court” (法院) includes a magistrate.

PART 7

MISCELLANEOUS

42. Liability of person other than principal offender

(1) Where the commission of an offence under this Ordinance by a body corporate is proved to have been aided, abetted, counselled, procured or induced by, or committed with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in

connection with his functions of management as if he were a director of the body corporate.

(3) Where the commission of an offence under this Ordinance by a partner of a partnership is proved to have been aided, abetted, counselled, procured or induced by, or committed with the consent or connivance of, or was attributable to any neglect on the part of, any other partner of the partnership or any person concerned in the management of the partnership, that other partner or that person concerned in the management of the partnership, as well as the first-mentioned partner, is guilty of the offence and is liable to be proceeded against and punished accordingly.

43. Proceedings for or in connection with acts of employees

In any proceedings against a person under this Ordinance for or in connection with an act of his employee –

- (a) it is not a defence for that person to show that his employee acted without his authority; and
- (b) in the absence of evidence to the contrary, any material fact that is known to the employee is to be regarded as having been known to that person.

44. Defence for employees

In any proceedings against a person for an offence under section 4 or 5, it is a defence for that person to show that he was acting in accordance with the instructions given to him by his employer in the course of his employment and he had no reasonable ground to believe that the prescribed product –

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

45. Defence of due diligence

(1) In any proceedings against a person for an offence under section 5, it is a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings, the defence under subsection (1) involves an allegation that the commission of the offence was due to –

- (a) the act or default of another person; or
- (b) reliance on information given by another person,

the person charged is not, without the leave of the court, entitled to rely on the defence unless he has served a notice in accordance with subsection (3).

(3) A notice for the purpose of subsection (2) must –

- (a) identify or assist in the identification of the person who committed the act or default or gave the information; and
- (b) be served on the person bringing the proceedings at least 7 working days before the hearing of the proceedings.

(4) A person is not entitled to rely on the defence under subsection (1) by reason of his reliance on information given by another person, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular to –

- (a) the steps which he took, and those which might reasonably have been taken by him, for the purpose of verifying the information; and
- (b) whether he had any reason to disbelieve the information.

46. Service of notices, etc.

A notice or other document (however described) required to be served or sent under this Ordinance is to be regarded as having been duly served or sent if –

- (a) in the case of the Director –
 - (i) it is delivered to him at his principal office; or

- (ii) it is sent to him by registered post addressed to him at his principal office;
- (b) in the case of an individual –
 - (i) it is delivered to the individual by personal service; or
 - (ii) it is sent to the individual by registered post addressed to the individual at the individual's last known address;
- (c) in the case of a company –
 - (i) it is delivered to any officer of the company by hand; or
 - (ii) it is left at, or sent by post to, the registered office of the company within the meaning of the Companies Ordinance (Cap. 32);
- (d) in the case of a body corporate (other than a company) –
 - (i) it is delivered to any place in Hong Kong at which the body carries on business and giving it to a person apparently concerned in the management of, or apparently employed by, the body; or
 - (ii) it is sent to the body by registered post addressed to the body at the body's last known address; or
- (e) in the case of a partnership –
 - (i) it is delivered to any place in Hong Kong at which the partnership carries on business and giving it to a person apparently concerned in the management of, or apparently employed by, the partnership; or
 - (ii) it is sent to the partnership by registered post addressed to the partnership at the partnership's last known address.

47. Evidence by certificate

(1) In any proceedings for an offence under this Ordinance, a certificate purporting to be signed by the Director or on his behalf by an authorized officer stating that –

- (a) a letter of notification has or has not been issued in respect of a prescribed product;
- (b) any notice under this Ordinance –
 - (i) has or has not been served; or
 - (ii) has or has not been served on any date; or
- (c) an authorization to other officers –
 - (i) has or has not been granted; or
 - (ii) has or has not been granted on any date,

is evidence of the facts stated in it, and is admissible in evidence on its production without further proof.

(2) In the absence of any evidence to the contrary, the court shall presume that the certificate was signed by the Director or such officer.

48. Power of Secretary to make regulations

The Secretary may make regulations –

- (a) providing for such matters as are necessary for giving full effect to the provision of this Ordinance; and
- (b) generally for the better carrying out of the purposes and provisions of this Ordinance.

49. Director may grant exemptions

(1) The Director may, in any particular case –

- (a) exempt in writing any person or prescribed product; or
- (b) by notice published in the Gazette, exempt any class of persons or any model or type of prescribed products,

from any or all of the provisions of this Ordinance.

(2) An exemption under this section may be granted subject to such conditions as the Director considers appropriate.

(3) The Director may suspend or withdraw an exemption granted under subsection (1) on the ground that the conditions subject to which the exemption was granted have not been complied with.

50. Delegation of power

The Director may in writing authorize any public officer to exercise any power vested in him or to perform any duty imposed upon him by virtue of any provision of this Ordinance.

51. Power of Director to specify forms

(1) The Director may specify any form to be used for the purposes of any provision of this Ordinance.

(2) If the Director specifies a form under this section, the Director is to make copies available at the office of the Electrical and Mechanical Services Department during normal office hours.

52. Power of Secretary to amend Schedules

The Secretary may by order published in the Gazette amend Schedules 1 and 2.

53. Protection of public officers

(1) A public officer is not personally liable for any act done or omitted to be done by the officer if the officer did or omitted to do the act in the honest belief that the act or omission was required or authorized by or under this Ordinance.

(2) The protection conferred by subsection (1) does not in any way affect the liability of the Government for the act or omission of the public officer.

54. Transitional arrangement for product models manufactured or imported or registered under voluntary energy efficiency labelling scheme before commencement of sections 4 and 5

(1) A product model is deemed to have complied with the requirements of section 6 if –

- (a) the product model has been registered in the name of a person (“registration holder”) under the voluntary energy efficiency labelling scheme and the registration is valid at the time when the registration holder submits the relevant information;
- (b) the relevant information is submitted before the commencement of sections 4 and 5;
- (c) the relevant information is submitted in the specified form and includes –
 - (i) the name and business address of the registration holder;
 - (ii) the particulars of the product model, including but not limited to its brand name, model name, energy efficiency and performance characteristics as declared by the registration holder;
 - (iii) the energy efficiency and performance characteristics of the product model as measured by test carried out by an institution;
 - (iv) other information, apart from the reference number, that will appear on the energy label for the product model; and
 - (v) the registration number under the voluntary energy efficiency labelling scheme; and

- (d) in the case of compact fluorescent lamps, in addition to the information referred to in paragraph (c), the person also submits the calculation of the energy efficiency grading of the lamps in accordance with the method specified in the approved code of practice.

(2) If, it is proved to the satisfaction of the Director that, before the commencement of this section, a contract has been entered into for the procurement of a prescribed product which is to be supplied as part of or in connection with the disposition of any specified premises, sections 4 and 5 of this Ordinance do not apply to the product so supplied in Hong Kong whether before or after the commencement of this section.

(3) If, it is proved to the satisfaction of the Director that, before the commencement of this section, a room air conditioner or refrigerating appliance specified respectively in section 1 or 2 in Part 1 of Schedule 1 has been manufactured in or imported into Hong Kong, sections 4 and 5 of this Ordinance do not apply to the room air conditioner or refrigerating appliance so manufactured or imported whether it is supplied in Hong Kong before or after the commencement of this section.

(4) In this section, “voluntary energy efficiency labelling scheme” (自願性能源效益標籤計劃) means the Hong Kong Voluntary Energy Efficiency Labelling Scheme operated in respect of energy-using products by the Electrical and Mechanical Services Department.

SCHEDULE 1

[ss. 2, 52 & 54]

PRESCRIBED PRODUCTS

PART 1

PRODUCTS THAT ARE PRESCRIBED PRODUCTS

1. Room air conditioners within the description in Division 1 of Part 2.
2. Refrigerating appliances within the description in Division 2 of Part 2.
3. Compact fluorescent lamps within the description in Division 3 of Part 2.

PART 2

DEFINITION OF PRESCRIBED PRODUCTS

Division 1 - Room air conditioners

1. In this Schedule, “room air conditioner” (空調機), subject to section 2 –
 - (a) means an encased assembly or encased assemblies that are designed to be used together where –
 - (i) the assembly or assemblies is or are designed primarily to provide free delivery of conditioned air to an enclosed space, room or zone (“conditioned space”); and
 - (ii) the assembly or assemblies has or have a prime source of refrigeration for cooling or heating; and
 - (b) includes single package type and split type room air conditioners that –
 - (i) use mains electricity as the primary power source;
 - (ii) operate by using the vapour compression cycle;
 - (iii) are non-ducted;
 - (iv) are air-cooled;

- (v) are of either cooling only type or reverse cycle type; and
- (vi) have a rated cooling capacity not exceeding 7.5 kilowatts.

2. In this Schedule, “room air conditioner” (空調機) does not include air-conditioners that are –

- (a) fan-coil air-conditioning units;
- (b) water-cooled units;
- (c) multiple split-system air conditioners;
- (d) heat pumps for heating only;
- (e) units designed for use with additional ducting or flexible pipes for air intake or exhaust; or
- (f) ceiling-mounted type or floor standing type air conditioners.

3. In sections 1 and 2 –

“air-cooled” (氣冷式), in relation to a room air conditioner, means the employment of air-cooled condensers in the room air conditioner;

“cooling capacity” (製冷量) means the amount of sensible and latent heat that a room air conditioner can remove from the conditioned space in a defined interval of time;

“fan-coil air-conditioning unit” (盤管式空調機組) means an air-conditioning unit equipped with a fan re-circulating air from the conditioned space through the coil, that contains either chilled or hot water for cooling or heating;

“heat pump” (熱泵) means an encased assembly or assemblies designed as a unit to provide delivery of heat, which includes an electrically operated refrigeration system for heating;

“mains electricity” (市電) means the electricity that is supplied in Hong Kong at a voltage of 380/220V and a frequency of 50 Hz;

“multiple split-system” (多重分體式系統) means a split system that –

- (a) incorporates a single or multiple refrigerant circuits;
- (b) has one or more compressors;
- (c) has multiple indoor units;
- (d) has one or more outdoor units; and
- (e) is capable of operating either as an air conditioner or a heat pump;

“non-ducted” (非管道式) means not having any additional ductings or pipes required for air intake and exhaust;

“rated cooling capacity” (額定製冷量) means the cooling capacity of a room air conditioner as determined and declared by the manufacturer or importer of the room air conditioner in accordance with the standard and requirements specified in the approved code of practice;

“vapour compression cycle” (蒸氣壓縮循環方式) means a mechanism employed by a room air conditioner throughout which the refrigerant undergoes alternate compression and expansion to achieve the cooling or heating function;

“water-cooled” (水冷式), in relation to a room air conditioner, means the employment of water-cooled condensers in the room air conditioner.

4. In section 1(b), a room air conditioner is of single package type if it is a room air conditioner which is assembled in factory and consists of components of a refrigeration system fixed on a common mounting to form a discrete unit.

5. In section 1(b), a room air conditioner is of split type if it is a room air conditioner which has separate indoor and outdoor components that are connected with the refrigerant piping, and the indoor unit of which usually lies within the conditioned space.

6. In section 1(b)(v), a room air conditioner is of cooling only type if it is a room air conditioner which is used for cooling, but not for heating.

7. In section 1(b)(v), a room air conditioner is of reverse cycle type if it is a room air conditioner which can operate in normal or reverse vapour compression cycle, used for both cooling and heating.

8. In section 2(f), a room air conditioner is of ceiling-mounted type if it is a split type room air conditioner whose indoor unit –

- (a) is equipped with mounting brackets or hooks on its body at appropriate locations;
- (b) is intended to be installed with mounting rods or mounting bolts fastened on the ceiling in accordance with the manufacturer's installation procedures;
- (c) is intended to be installed directly under the ceiling; and
- (d) has an intake grille, which may or may not be installed at the same level as the adjacent false ceiling panels (if there are such false ceiling panels).

9. In section 2(f), a room air conditioner is of floor standing type if it is a split type room air conditioner whose indoor unit is intended to be installed directly on the floor in accordance with the manufacturer's installation procedures.

Division 2 - Refrigerating appliances

1. In this Schedule, “refrigerating appliance” (冷凍器具), subject to section 2 –

- (a) means a factory-assembled insulated cabinet with one or more compartments and of suitable volume and equipment for household use, cooled by internal natural convection or a frost-free system where the cooling is obtained by one or more energy-consuming means;
- (b) includes a refrigerator, frozen food storage cabinet, food freezer, and their combinations; and

- (c) includes refrigerating appliances that –
 - (i) use mains electricity as the primary power source;
 - (ii) operate by using the vapour compression cycle; and
 - (iii) have a rated total storage volume not exceeding 500 litres.

2. In this Schedule, “refrigerating appliance” (冷凍器具) does not include appliances which –

- (a) may also use other energy sources; or
- (b) operate by using absorption refrigerating system.

3. In sections 1 and 2 –

“absorption refrigerating system” (吸收式製冷系統) means a system –

- (a) by which refrigeration effect is produced through the use of two fluids and some quantity of heat input; and
- (b) in which a secondary fluid or absorbent, rather than a mechanical compressor, is used to circulate the refrigerant;

“mains electricity” (市電) means the electricity that is supplied in Hong Kong at a voltage of 380/220V and a frequency of 50 Hz;

“rated total storage volume” (額定總容積) means the total storage volume of a refrigerating appliance as determined and declared by the manufacturer or importer of the refrigerating appliance in accordance with the standard and requirements specified in the approved code of practice;

“vapour compression cycle” (蒸氣壓縮循環方式) means a mechanism employed by a refrigerating appliance throughout which the refrigerant undergoes alternate compression and expansion to achieve the cooling or heating function.

Division 3 - Compact fluorescent lamps

1. In this Schedule, “compact fluorescent lamp” (緊湊型熒光燈), subject to section 2 –

- (a) means a type of fluorescent lamp which has a single lamp cap; and
- (b) includes integrated type compact fluorescent lamps that –
 - (i) use mains electricity as the primary power source;
 - (ii) have a rated lamp wattage up to 60 watts; and
 - (iii) have a screw or bayonet cap.

2. In this Schedule, “compact fluorescent lamp” (緊湊型熒光燈) does not include –

- (a) non-integrated type compact fluorescent lamps;
- (b) reflector compact fluorescent lamps; or
- (c) cold cathode fluorescent lamps.

3. In sections 1 and 2 –

“cold cathode fluorescent lamp” (冷陰極熒光燈) means a lamp of a type whose principle of illumination is the same as that of a conventional fluorescent lamp except that it –

- (a) does not require heating of electrodes during starting and operating; and
- (b) operates at a much higher voltage and lower current to start and maintain the discharge;

“integrated type compact fluorescent lamp” (整合式熒光燈) means a compact fluorescent lamp of a type that –

- (a) is a single integrated assembly comprising a lamp cap, a light source and additional elements necessary for starting and for stable operation of the light source; and
- (b) cannot be dismantled without being permanently damaged;

“mains electricity” (市電) means the electricity that is supplied in Hong Kong at a voltage of 380/220V and a frequency of 50 Hz;

“non-integrated type compact fluorescent lamp” (非整合式熒光燈) means a compact fluorescent lamp of a type that is electrically connected to an external ballast for operation;

“rated lamp wattage” (額定瓦數值) means the wattage of a compact fluorescent lamp as determined and declared by the manufacturer or importer of the compact fluorescent lamp in accordance with the standard and requirements specified in the approved code of practice;

“reflector compact fluorescent lamp” (反射式熒光燈) means a compact fluorescent lamp of a type that comprises one or more compact fluorescent arc tubes mounted into a reflector housing for directing light from light source, both of which cannot be dismantled without being permanently damaged.

SCHEDULE 2

[ss. 4, 5 & 52]

SPECIFICATION OF ENERGY LABELS

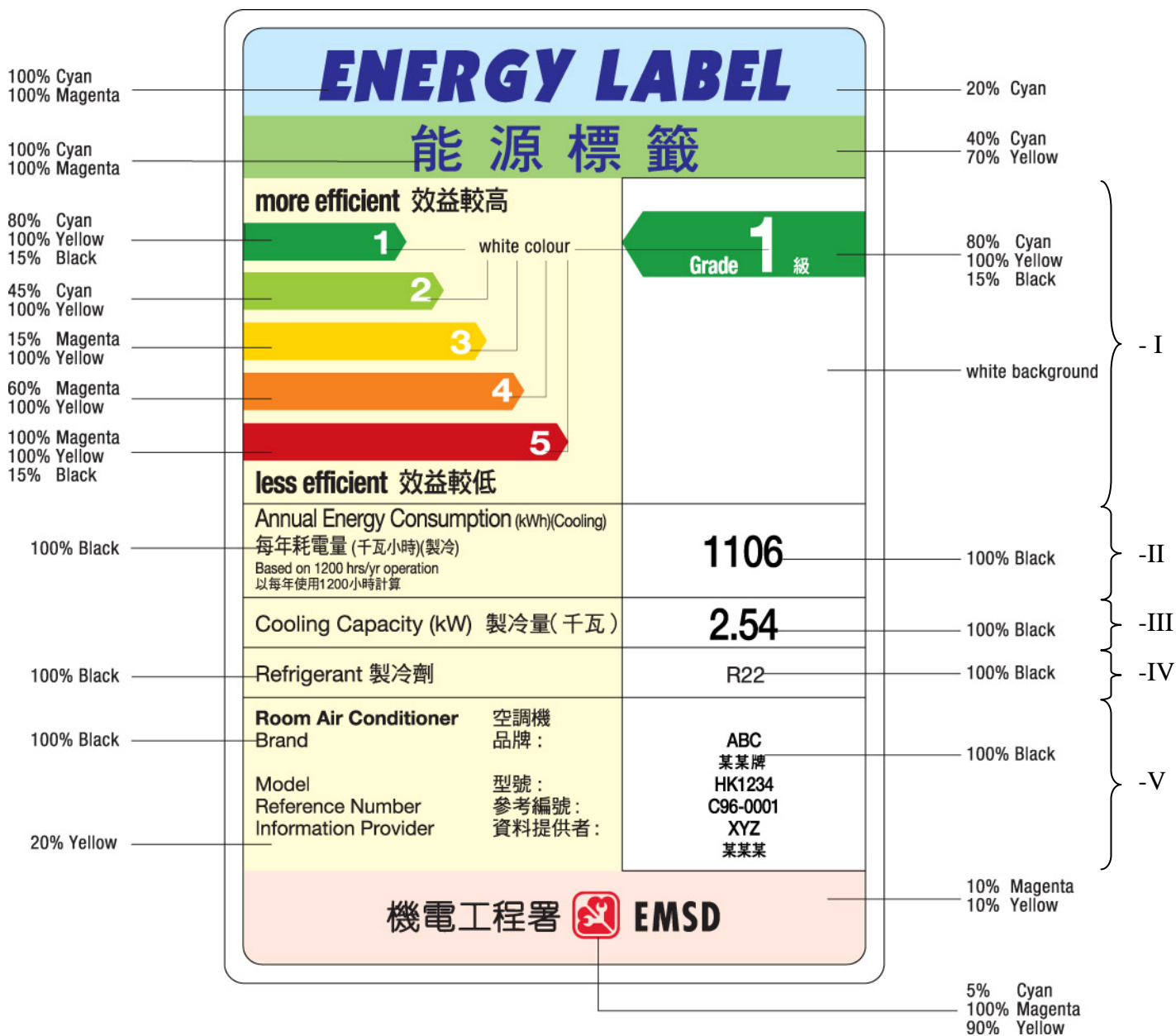
PART 1

1. The requirements to be complied with by energy label for room air conditioners are specified in Part 2.
2. The requirements to be complied with by energy label for refrigerating appliances are specified in Part 3.
3. The requirements to be complied with by energy label for compact fluorescent lamps are specified in Part 4.

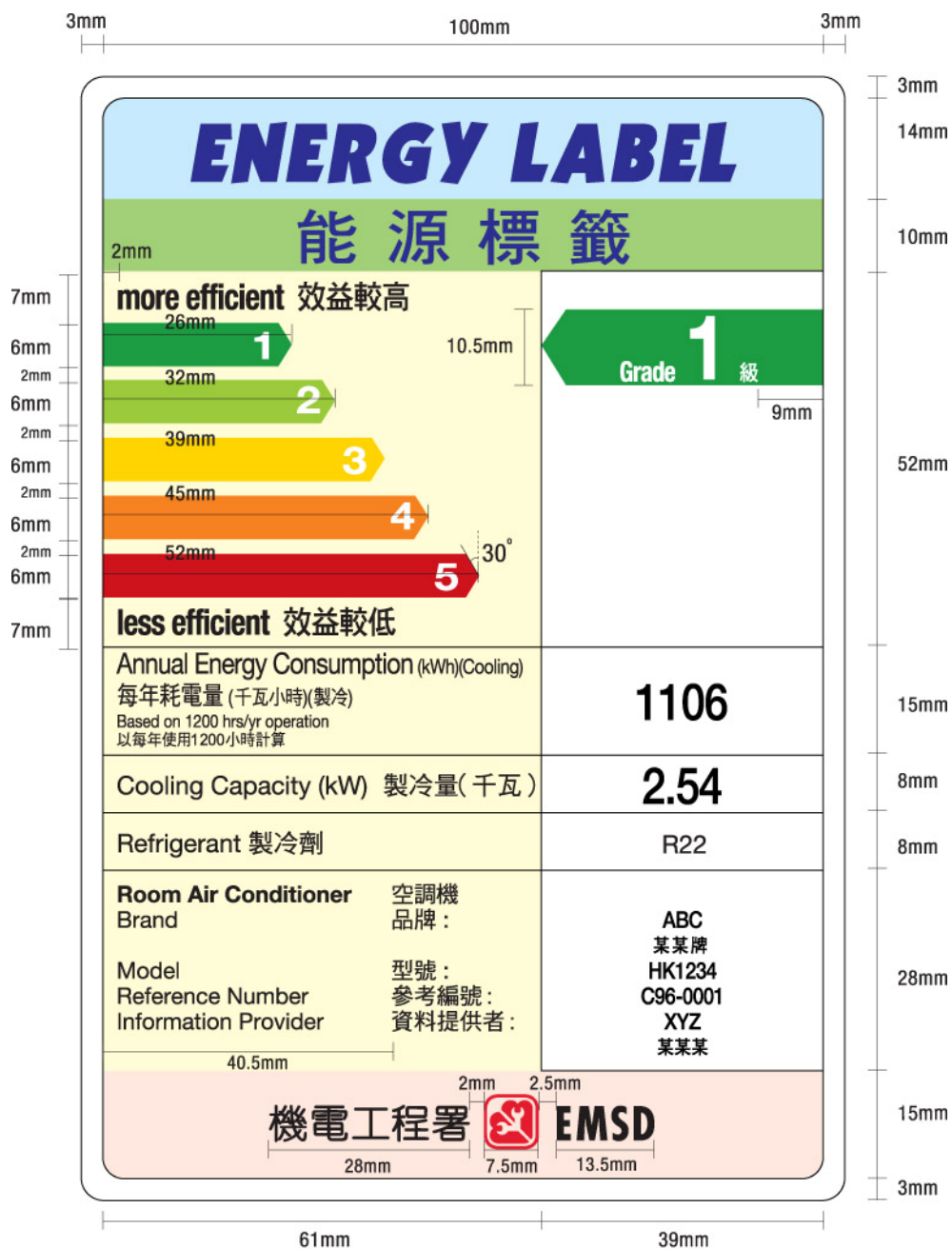
PART 2

REQUIREMENTS TO BE COMPLIED WITH BY ENERGY LABEL
FOR ROOM AIR CONDITIONERS

1. The colour and design of the energy label must be as specified in the diagram below –



2. The dimensions of the energy label must be as specified in the diagram below –



Actual Size : 106mm(W) X 156mm(H)

3. The energy label under section 1 of Part 2 is divided into 5 rectangular areas (marked I, II, III, IV and V by the side of the label). The information to be contained in each area of the energy label is specified in column 2 of Table A in relation to the area specified opposite to that information in column 1 of the Table.

TABLE A

Area	Information to be contained
I	The energy efficiency grading of the model, calculated in accordance with the approved code of practice. The head of the arrow containing the energy efficiency grade number is to be placed at the same level and has the same colour as the head of the relevant arrow on the left.
II	The annual energy consumption calculated by multiplying the measured power consumption in cooling mode at full load by an average of 1 200 hours per year, determined in accordance with the approved code of practice.
III	The cooling capacity, which is the measured cooling capacity in kW of the model in cooling mode at full load, determined in accordance with the approved code of practice.
IV	The type of refrigerant used for the model.
V	The brand name, the product model, the reference number assigned by the Director and the name of the information provider. The information provider is the specified person who submitted the specified information to the Director.

4. The specifications for the font size of the words printed on the energy label in Part 2 are as follows –

Description on the Energy Label	Font and font size
ENERGY LABEL	31 point Italic Kabel Ult BT (English)
能源標籤	24 point DFHeibold (Chinese)
more efficient 效益較高	14 point Helvetica Neue Bold (English)
less efficient 效益較低	14 point DFHeibold (Chinese)
Grade on the left (1, 2, 3, 4, 5)	15 point Helvetica Neue Bold (English)
Grade on the right – The word “Grade”	11 point Helvetica Neue Bold Condensed (English)
The figure “1”	35.5 point Helvetica Neue Bold (English)
The word “級”	9.5 point DFHeibold (Chinese)
Annual Energy Consumption (kWh)(Cooling)	11.5 (8) point Helvetica Roman (English)
每年耗電量 (千瓦小時) (製冷)	10 (8) point DFHeiMedium (Chinese)
Based on 1 200 hrs/yr operation	7 point Helvetica Roman (English)
以每年使用 1 200 小時計算	7 point DFHeiMedium (Chinese)
Cooling Capacity (kW)	10 point Helvetica Roman (English)
製冷量 (千瓦)	10 point DFHeiMedium (Chinese)
Figures of annual energy consumption and cooling capacity on the right	20 point Helvetica Medium
Refrigerant	10 point Helvetica Roman (English)
製冷劑	10 point DFHeiMedium (Chinese)
Character of refrigerant on the right	10 point Helvetica Roman (English)

Room Air Conditioner 空調機	9 point Helvetica Bold (English) 9 point DFHeiMedium (Chinese)
Brand Model Reference Number Information Provider	} 9 point Helvetica Roman (English)
品牌： 型號： 參考編號： 資料提供者：	
Characters of brand, model, reference number and information provider on the right	9 point Helvetica Roman (English) 7.5 DFHeiMedium (Chinese)
機電工程署 EMSD and its logo	16 point Monotype Yuen (Chinese) 17.9 point Futura Bold Condensed (English)

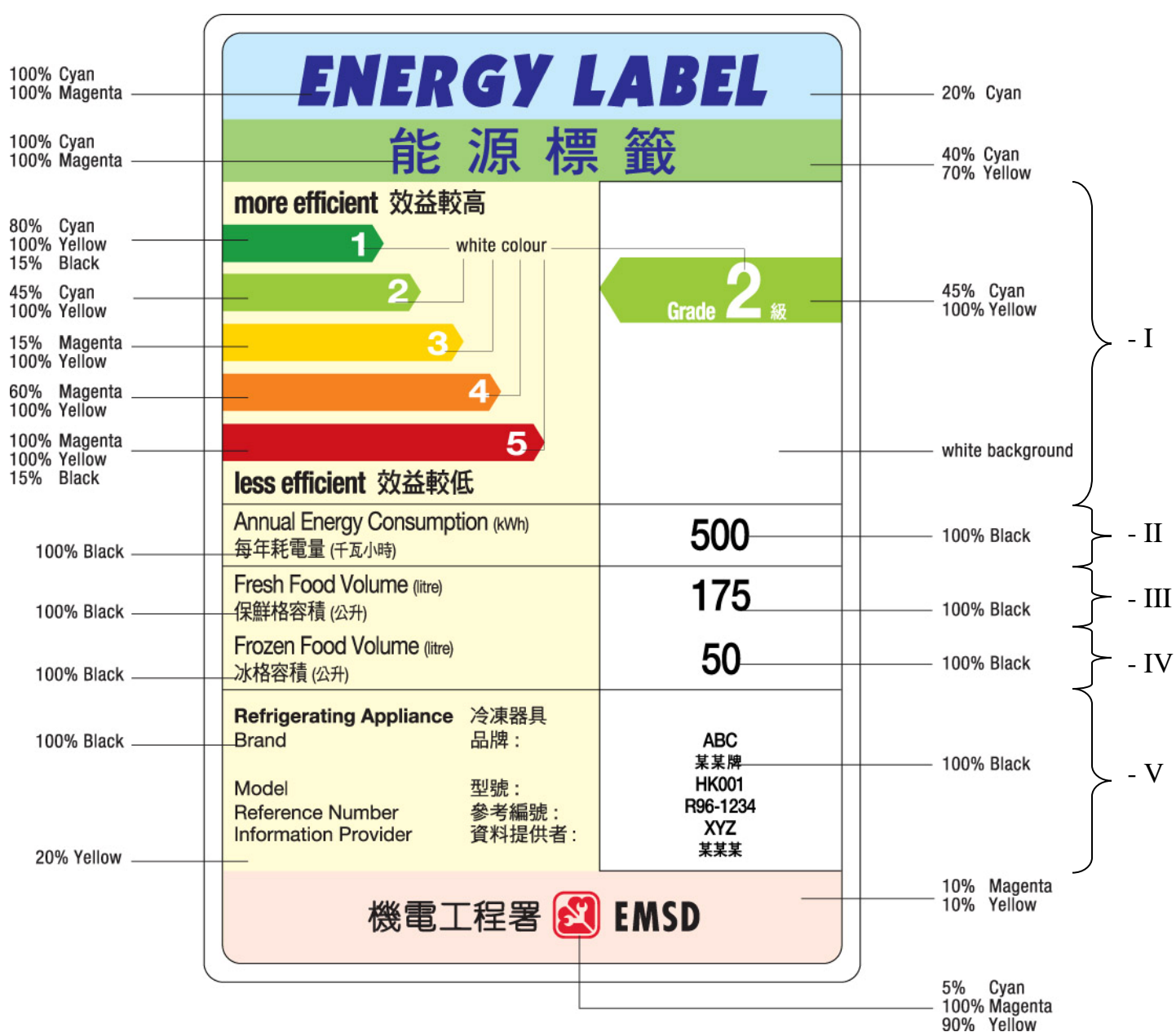
5. The energy label is to be –

- (a) attached or affixed –
 - (i) to a prominent position of the room air conditioner; or
 - (ii) if only part of the room air conditioner is being exhibited, to a prominent position of that part of the room air conditioner,
 and is to be clearly visible; or
- (b) attached to the room air conditioner or its packaging in a manner approved by the Director.

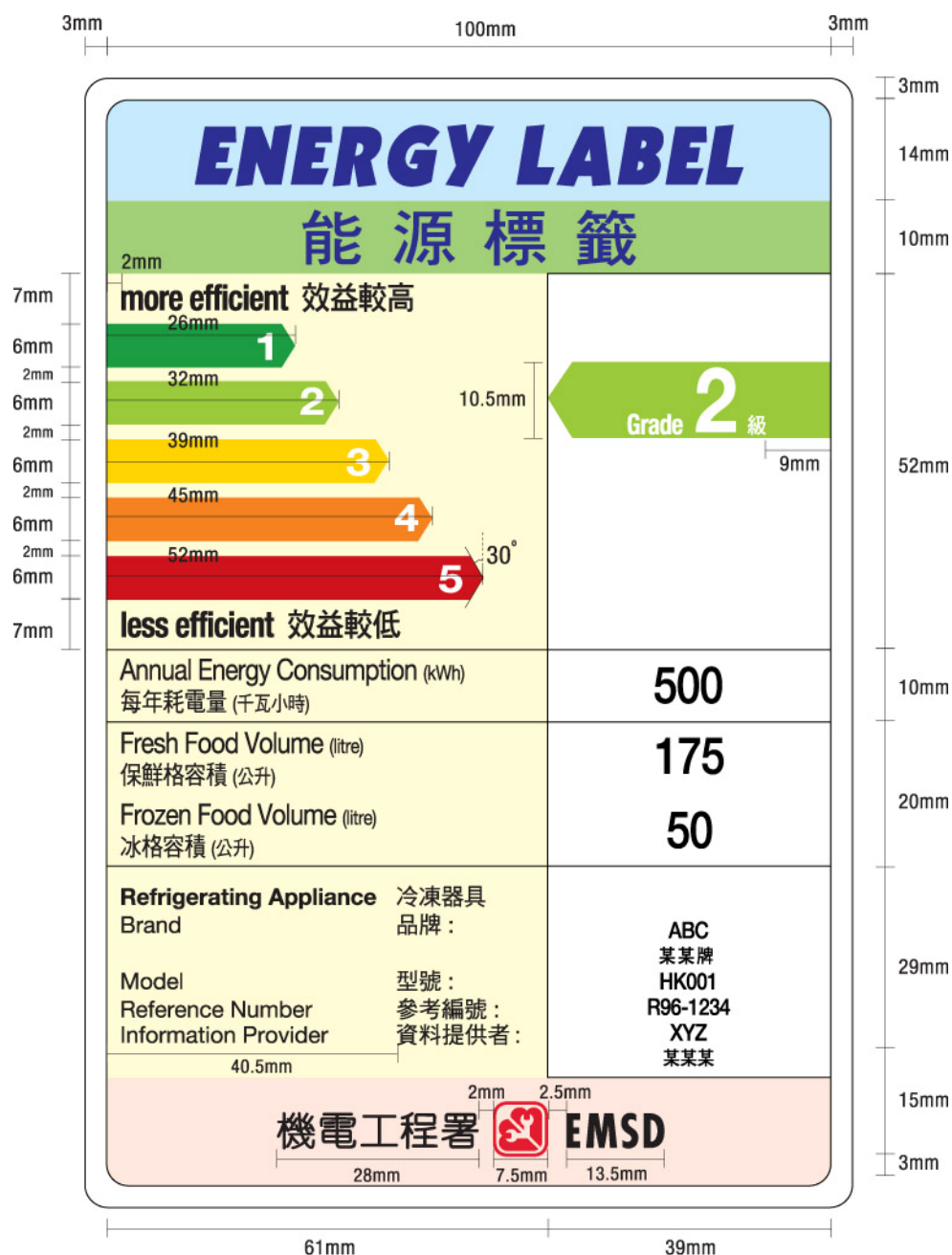
PART 3

REQUIREMENTS TO BE COMPLIED WITH BY ENERGY LABEL FOR REFRIGERATING APPLIANCES

1. The colour and design of the energy label must be as specified in the diagram below –



2. The dimensions of the energy label must be as specified in the diagram below –



Actual Size : 106mm(W) X 156mm(H)

3. The energy label under section 1 of Part 3 is divided into 5 rectangular areas (marked I, II, III, IV and V by the side of the label). The information to be contained in each area of the energy label is specified in column 2 of Table B in relation to the area specified opposite to that information in column 1 of the Table.

TABLE B

Area	Information to be contained
I	The energy efficiency grading of the model, calculated in accordance with the approved code of practice. The head of the arrow containing the energy efficiency grade number is to be placed at the same level and has the same colour as the head of the relevant arrow on the left.
II	The annual energy consumption calculated by multiplying the measured energy consumption by 365 days, determined in accordance with the approved code of practice.
III	The fresh food volume, which is the sum of the measured net storage volume of all compartments whose operating temperature exceeds -6°C , determined in accordance with the approved code of practice.
IV	The frozen food volume, which is the sum of the measured net storage volume of all frozen food storage compartments whose operating temperature is equal to or below -6°C , determined in accordance with the approved code of practice.
V	The brand name, the product model, the reference number assigned by the Director and the name of the information provider. The information provider is the specified person who submitted the specified information to the Director.

4. The specifications for the font size of the words printed on the energy label in Part 3 are as follows –

Description on the Energy Label	Font and font size
ENERGY LABEL	31 point Italic Kabel Ult BT (English)
能源標籤	24 point DFHeibold (Chinese)
more efficient 效益較高	14 point Helvetica Neue Bold (English)
less efficient 效益較低	14 point DFHeibold (Chinese)
Grade on the left (1, 2, 3, 4, 5)	15 point Helvetica Neue Bold (English)
Grade on the right – The word “Grade”	11 point Helvetica Neue Bold Condensed (English)
The figure “2”	35.5 point Helvetica Neue Bold (English)
The word “級”	9.5 point DFHeibold (Chinese)
Annual Energy Consumption (kWh)	11.5 (8) point Helvetica Roman (English)
每年耗電量 (千瓦小時)	10 (8) point DFHeiMedium (Chinese)
Fresh Food Volume (litre)	11.5 (8) point Helvetica Roman (English)
保鮮格容積 (公升)	10 (8) point DFHeiMedium (Chinese)
Frozen Food Volume (litre)	11.5 (8) point Helvetica Roman (English)
冰格容積 (公升)	10 (8) point DFHeiMedium (Chinese)
Figures of annual energy consumption and volumes on the right	20 point Helvetica Medium
Refrigerating Appliance	9 point Helvetica Bold (English)
冷凍器具	9 point DFHeiMedium (Chinese)

Brand	}	9 point Helvetica Roman (English)
Model		
Reference Number		
Information Provider		
品牌：	}	9 point DFHeiMedium (Chinese)
型號：		
參考編號：		
資料提供者：		
Characters of brand, model, reference number and information provider on the right		9 point Helvetica Roman (English) 7.5 DFHeiMedium (Chinese)
機電工程署 EMSD and its logo		16 point Monotype Yuen (Chinese) 17.9 point Futura Bold Condensed (English)

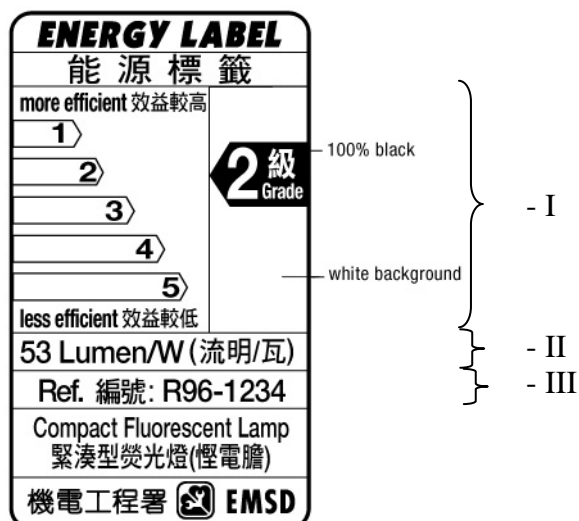
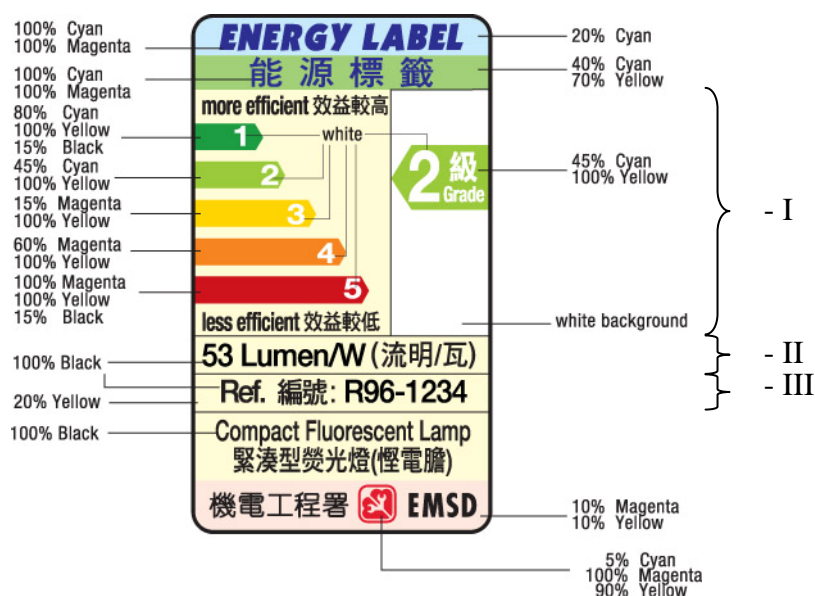
5. The energy label is to be –

- (a) attached or affixed –
 - (i) to the top front door or a prominent position of the refrigerating appliance; or
 - (ii) if only part of the refrigerating appliance is being exhibited, to a prominent position of that part of the refrigerating appliance,
 and is to be clearly visible; or
- (b) attached to the refrigerating appliance or its packaging in a manner approved by the Director.

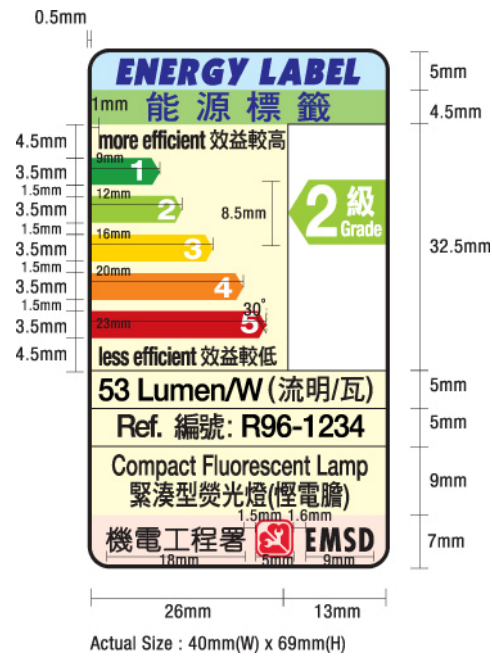
PART 4

REQUIREMENTS TO BE COMPLIED WITH BY ENERGY LABEL FOR COMPACT FLUORESCENT LAMPS

1. The colour and design of the largest energy label must be as specified in the diagram below. There are two versions of the energy labels, namely the colour version and black-on-white version. The supplier is to choose either one of the two versions.



2. The dimensions of the largest energy label must be as specified in the diagram below –



3. The energy label under section 1 of Part 4 is divided into 3 rectangular areas (marked I, II and III by the side of the label). The information to be contained in each area of the energy label is specified in column 2 of Table C in relation to the area specified opposite to that information in column 1 of the Table.

TABLE C

Area	Information to be contained
I	The energy efficiency grading of the model, calculated in accordance with the approved code of practice. If a coloured label is chosen, the head of the arrow containing the energy efficiency grade number is to be placed at the same level and has the same colour as the head of the relevant arrow on the left. If a black-on-white label is chosen, the head of the arrow containing the energy efficiency grade number is to be placed at the same level as the head of the relevant arrow on the left and is in black.
II	The lumen per watt, which is the lamp lumen efficacy calculated by computing the ratio of the measured lamp luminous flux and the lamp electrical power input, determined in accordance with the approved code of practice.
III	The reference number assigned by the Director

4. The specifications for the font size of the words printed on the energy label in Part 4 are as follows –

Description on the Energy Label	Font and font size
ENERGY LABEL	13 point Italic Kabel Ult BT (English)
能源標籤	12.5 point DFHeibold (Chinese)
more efficient 效益較高	9.6 point Helvetica Neue Bold (English)
less efficient 效益較低	9.1 point DFHeiBold (Chinese)

Grade on the left (1, 2, 3, 4, 5)	10.6 point Helvetica Neue Bold (English)
Grade on the right – The word “Grade”	8 point Helvetica Neue Bold Condensed (English)
The figure “2”	27 point Helvetica Neue Bold (English)
The word “級”	14 point DFHeiBold (Chinese)
Lumen/W (流明/瓦)	11.8 point Helvetica Neue Medium (English) 10.8 point DFHeiBold (Chinese)
Figure of lumen/W	11.8 point Helvetica Neue Medium (English)
Ref. 編號 :	11.8 point Helvetica Neue Medium (English) 10.8 point DFHeiBold (Chinese)
Character of reference number	11.8 point Helvetica Neue Medium (English)
Compact Fluorescent Lamp 緊湊型熒光燈 (慳電膽)	10.65 point Helvetica Neue Medium (English) 10.65 point DFHeiBold (Chinese)
機電工程署 EMSD and its logo	10.4 point Monotype Yuen (Chinese) 11.6 point Futura Bold Condensed (English)

5. The energy label is to be –

- (a) printed on or affixed to a prominent position of the individual product packaging and is to be clearly visible;
or
- (b) attached to the product packaging in a manner approved by the Director.

6. The size of the energy label is to be chosen according to the following criteria –

- (a) The energy label is to be contained in a blank border the width of which must be at least 2 mm; the energy label must not cover more than 50% of the surface area of the largest side of the product packaging.
- (b) The largest energy label is to be first chosen and checked whether it complies with all the requirements in paragraph

- (a). If those requirements cannot be met, then the second largest energy label (in the descending order of 90%, 80%, 70% or 60% of the largest energy label) is to be chosen. 60% of the largest energy label is the minimum size to be used. This selection process is to be repeated until an appropriate energy label is chosen.
- (c) Where the product packaging is too small to accommodate the smallest energy label specified in this Part, the specified person of the product is to apply for the Director's directions on the manner of displaying the energy label on the packaging.

Explanatory Memorandum

The object of this Bill is to introduce a scheme for, the provision by suppliers of specified information in respect of and, the display of energy labels on, specified energy-using products, including household and office appliances. The scheme promotes the aim of energy saving by informing the consumers of the energy efficiency performance of the products. The scheme will be implemented in phases, the first phase will include room air conditioners, refrigerating appliances and compact fluorescent lamps.

2. The Bill contains 7 Parts and 2 Schedules.

Part 1 – Preliminary

3. Part 1 provides for the preliminary matters.
4. Clause 1 provides for the short title and the commencement. Other than the requirements for the submission of specified information, etc. and labelling of prescribed products, the Ordinance, when enacted, will commence on the day on which it is published in the Gazette. The provisions relating to the requirements for the submission of specified information, etc., labelling of

prescribed products and the prohibition notice (i.e., clauses 4, 5 and 15(1)(a) and (b)) will commence 18 months after that publication.

5. Clause 2 contains the definitions with reference to which the provisions of the Bill are to be interpreted.

6. Clause 3 provides that the Bill applies to prescribed products that have been specified in Part 1 of Schedule 1. Clause 3(2) sets out the products to which the Bill does not apply.

Part 2 — Labelling of prescribed products and submission of specified information, etc. to the Director of Electrical and Mechanical Services (“Director”)

7. Part 2 contains provisions relating to the labelling of prescribed products and submission of specified information, etc. to the Director.

8. Clause 4 prohibits a manufacturer or importer of a prescribed product from supplying the product unless it is a product of a listed model with a reference number that is assigned in the name of the manufacturer or importer and included in the record and bears an energy label that complies with the requirements specified in Schedule 2.

9. Clause 5 prohibits a person other than a manufacturer or importer of a prescribed product from supplying the product unless he has ensured that the product is a product of a listed model with a reference number that is included in the record and bears an energy label that complies with the requirements specified in Schedule 2.

10. Clause 6 provides for the submission of specified information and specified documents of prescribed products. Any specified information shall be submitted to the Director in the specified form. The specified person may include in the same submission a family of models of prescribed products.

11. Clause 7 sets out the additional reports to be submitted for compact fluorescent lamps.

12. Clause 8 provides that the Director may assign a reference number to a model of prescribed products.
13. Clause 9 requires a specified person to notify the Director of any change in the specified information or specified documents submitted to the Director.
14. Clause 10 requires a specified person to submit to the Director up-to-date information in respect of a listed model at intervals not exceeding 5 years.
15. Clause 11 imposes certain duties on a specified person to whom a reference number has been assigned. For example, clause 11(2) requires the specified persons to ensure that the information on the energy label conforms with the information submitted to the Director.
16. Clause 12(1) prohibits a person from using an energy label on a product (not being a product of a listed model) so as to mislead another person into believing that the product is of a listed model. Clause 12(2) prohibits a person from using an energy label on a product which will mislead another person into believing that the product conforms with the information on the energy label.
17. Clause 13 empowers the Director to keep a record of listed models. The record may be kept in a form that the Director considers appropriate. The record is available for public inspection free of charge.

Part 3 — Improvement notices, prohibition notices and removal of reference number

18. Part 3 contains provisions relating to improvement notices, prohibition notices and the removal of reference number.
19. Clause 14 empowers the Director to serve an improvement notice if he considers that a person is contravening a requirement under this Bill. An improvement notice may specify the remedial measures to be taken within a specified period. A person commits an offence if he contravenes a direction under the improvement notice.
20. Clause 15 empowers the Director to serve a prohibition notice on a person who is supplying a prescribed product prohibiting that person from supplying the

prescribed product if he reasonably believes that the prescribed product is not a product of a listed model or an energy label is not displayed on the product in accordance with this Bill.

21. Clause 16 empowers the Director to remove from the record the reference number assigned to a product model in the name of a specified person if the specified person has not complied with clause 7, fails to perform the duties under clause 11, has provided false information, or has engaged in certain conduct.

22. Clause 17 provides for the procedure before removing a reference number from the record. The Director is required to notify the specified person of his intention of the removal and invite the person to make representation as to why the reference number should not be removed.

23. Clause 18 provides that a specified person is to notify other suppliers that a relevant reference number has been removed from the record.

24. Clause 19 empowers the Director to require a person to furnish information or produce documents relating to a prescribed product if he has reasonable grounds to suspect that a provision of this Bill has been contravened in relation to the prescribed product.

25. Clause 20 makes it an offence for a person to furnish false information or documents.

Part 4 — Enforcement powers, etc.

26. Part 4 contains provisions relating to enforcement powers, etc.

27. Clause 21 empowers the Director to appoint any public officer to be an authorized officer for the purpose of the Bill.

28. Clause 22 requires an authorized officer to produce proof of the identity before he exercises his power under the Bill.

29. Clause 23 confers certain powers on an authorized officer to enable him to carry out routine inspection, including the powers to enter any premises, to require the production of documents or prescribed products, and to seize and detain prescribed products for investigation, etc.

30. Clause 24 confers certain powers on an authorized officer who has obtained a warrant from the court to enter any premises (including domestic premises). After entering the premises, the officer has powers to stop and search any person found at the premises, to require the production of documents or prescribed products, and to search, seize and detain prescribed products for investigation, etc.

31. Clause 25 empowers the court to issue such a warrant to an authorized officer.

32. Clause 26 provides that an authorized person may during the time when he remains in a premises entered under clause 24 detain any person found on the premises.

33. Under clause 27 the Director may require the testing of prescribed products in such manner as the Director may specify.

34. Clause 28 requires the Director to return after investigation the prescribed product or anything to its owner or to the person who had possession of the product or thing.

35. Clause 29 allows an authorized officer to be assisted by other persons in performing any function under this Part.

36. Clause 30 empowers the Director to require a person who has failed to comply with certain requirements under the Ordinance, or a person to whom a prohibition notice has been served, etc. to publish a statement of non-compliance. The provision further empowers the Director to publish such a statement himself or on behalf of the person.

37. Clause 31 imposes a duty on the Director to compensate an owner of the prescribed product for any loss suffered as a result of the seizure or detention of the product.

Part 5 — Appeals

38. Part 5 contains provisions relating to appeals.

39. Clause 32 provides for the appeal against a decision or direction of the Director.

40. Clause 33 provides that an appellant is to commence an appeal by lodging a notice of appeal. The notice of appeal is to contain specified information and is lodged within a specified period.

41. Clause 34 provides for the composition of the appeal board panel, the terms of appointment of any panel member, the circumstances in which a panel member's appointment is to be terminated.

42. Clause 35 provides for the membership, chairman and quorum of the appeal board.

43. Clause 36 provides for the remuneration of the members of the appeal board.

44. Clause 37 provides for the proceedings before the appeal board, including legal representation and adduce of evidence.

45. Clause 38 empowers the appeal board to make certain orders, including order to give evidence and costs order. The board may confirm, vary, revoke or substitute the Director's decision or direction.

46. Clause 39 provides that the determination of the appeal board will be by majority decision.

Part 6 — Code of practice

47. Part 6 contains provisions relating to code of practice.

48. Clause 40 authorizes the Director to establish codes of practice relating to any provision of the Bill. Codes of practice are intended to provide practical guidance in respect of the application or operation of the provisions of the Bill. They are required to be published in the Gazette.

49. Clause 41 provides for how an approved code of practice may be used in legal proceedings. In essence, the clause provides that –

- (a) if the court is satisfied that a provision of an approved code is relevant to determining a matter in issue in the

proceedings before the court, the code is admissible in evidence in those proceedings; and

- (b) if it is proved that a person either contravened or did not contravene a provision of an approved code, then that fact may be relied on by any party to the proceedings as tending to establish or negate a matter as issue in the proceedings.

Part 7 — Miscellaneous

50. Part 7 contains the miscellaneous provisions.

51. Clause 42 provides that where an offence by a body corporate or partnership is committed with the consent or was attributed to any neglect of a director or partner, the director and the body corporate, or (as the case may be) the partner and the partnership are guilty of the offence.

52. Clause 43 provides for the proceedings for or in connection with the acts of employees.

53. Clause 44 provides for the defence of an employee.

54. Clause 45 provides for the defence of due diligence. In any proceedings against a person for an offence under clause 5, it is a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

55. Clause 46 provides for the service of a notice or other documents required to be served or sent under the Bill.

56. Clause 47 provides that a certificate purporting to be signed by the Director is admissible in evidence in any proceedings for an offence.

57. Clause 48 empowers the Secretary for the Environment, Transport and Works (“Secretary”) to make regulations.

58. Clause 49 empowers the Director to grant an exemption from any provision of the Bill.

59. Clause 50 provides that the Director may delegate his powers to other authorized officers.

60. Clause 51 empowers the Director to specify forms to be used for the purposes of the Bill.

61. Clause 52 empowers the Secretary to amend Schedules 1 and 2.

62. Clause 53 provides that a public officer is not liable for an act done or omitted to be done if the officer did or omitted to do the act in the honest belief that the act or omission was required under the Bill. However, the protection does not affect the Government's liability for the act or omission of the public officer.

63. Clause 54 provides for the transitional arrangement of prescribed products that –

- (a) have been registered under the voluntary energy efficiency labelling scheme;
- (b) will be supplied in Hong Kong under a certain contract entered into before the commencement of that clause; or
- (c) have been manufactured in or imported into Hong Kong before the commencement of that clause.

Schedules

64. Schedule 1 contains 2 Parts. Part 1 lists out the products that are prescribed products. Part 2 defines these products including room air conditioners (Division 1), refrigerating appliances (Division 2) and compact fluorescent lamps (Division 3).

65. Schedule 2 contains the specification of energy labels for room air conditioners (Part 2), refrigerating appliances (Part 3) and compact fluorescent lamps (Part 4), including their colour, design, dimensions and the information to be contained.

Examples of Electrical Appliances Regulated under Overseas Mandatory Labelling Schemes

Countries	Electrical appliances regulated under mandatory labelling schemes
Australia	Air conditioners, clothes dryers, clothes washers, dishwashers, and refrigerators and freezers
Canada	Air conditioners, clothes dryers, clothes washers, dishwashers, electric ovens, integrated washer-dryers, and refrigerators and freezers
Mainland China	Refrigerators, air conditioners and clothes washers
South Korea	Air conditioners, ballasts for fluorescent lamps, clothes washers, compact fluorescent lamps, dishwashers, fluorescent lamps, incandescent bulbs, kim-chi fridges, refrigerators and freezers, rice cookers, and water dispensers
Britain	Air conditioners, clothes washers, clothes dryers, integrated washer-dryers, dishwashers, electric ovens, lamps, and refrigerators and freezers
United States	Air conditioners, ballast, boilers, clothes washers, dishwashers, furnaces, heat pumps, lamps, refrigerator and freezers, and water heaters

Implications of the Proposal

FINANCIAL AND CIVIL SERVICE IMPLICATIONS

Additional resources of \$2.436 million, including the employment of five additional staff, have been earmarked for EMSD for the implementation of the mandatory EELS in 2007-08. The full-year provision of \$2.636 million from 2008-09 onwards will be subject to review in the light of operational experience of the Scheme. Other additional expenses (e.g. remuneration of the members of the Appeal Board) arising from the implementation of the Scheme will be met by EMSD's existing allocation.

SUSTAINABILITY IMPLICATIONS

2. The implementation of the mandatory EELS should contribute positively to energy conservation, reduction of carbon dioxide emission, and alleviation of air pollution problem.

3. The proposal is in line with the objective of increasing and sustaining conservation of energy in order to reduce the growing trend of energy use, which has been set out in the Government's First Sustainable Development Strategy of Hong Kong. The proposal is also in line with the sustainability principle of improving consumption efficiency of natural resources.

ENVIRONMENTAL IMPLICATIONS

4. The implementation of the mandatory EELS will have positive environmental implications since it would promote the use of more energy-efficient products. It is estimated that the proposal will achieve an additional saving of around 150 GWh of electricity and a reduction of carbon dioxide emission of 105 000 tonnes per year.

ECONOMIC IMPLICATIONS

5. The mandatory EELS will provide consumers with more information to make sensible choice on energy efficient products. This energy conservation move will improve air quality and hence public health in Hong Kong. It will also enhance Hong Kong's reputation as an environmentally responsible city and its competitiveness as an international business and financial centre.