

ENERGY EFFICIENCY (LABELLING OF PRODUCTS) ORDINANCE

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 11 OF 2008

L.S.

Donald TSANG
Chief Executive
8 May 2008

An Ordinance 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.

[9 May 2008]

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 16(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 36;

“approved code of practice” (經核准實務守則) means a code of practice approved under section 42;

“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;
- “excepted product” (例外產品) means a prescribed product to which section 12(3) does not apply by virtue of section 12(4);
- “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 15;
- “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 14;
- “panel member” (委員團成員) means a person appointed to the appeal board panel under section 35;
- “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 16;

“record” (紀錄冊) means the record kept under section 14;

“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;

“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 53;

“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;

“updating notice” (更新通知書) means a notice served by the Director under section 12(1).

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—

- (a) that product 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;
- (b) that product bears an energy label that—
 - (i) complies with the requirements specified in Schedule 2 for that prescribed product; and
 - (ii) is attached or affixed to the prescribed product or otherwise displayed in accordance with the requirements specified in Schedule 2 for that prescribed product; and
- (c) the information set out on the energy label of that prescribed product conforms with the specified information submitted by the manufacturer or importer to the Director in respect of the model or, if the specified information has been amended pursuant to section 9 or 10, the specified information as read subject to section 9 or 10.

(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—

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

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

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

- (4) Subsection (1) does not apply to a person who—
- (a) is an employee who does not exercise managerial functions; and
 - (b) supplies a prescribed product in accordance with the instructions given to him by his employer in the course of his employment.
- (5) If an employee who does not exercise managerial functions supplies a prescribed product knowing that the product—
- (a) is not a product of a listed model; or
 - (b) does not bear an energy label,
- he commits an offence and is liable on conviction to a fine at level 6.

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;
 - (iii) its energy efficiency and performance characteristics as declared by the person who submits the specified information; and
 - (iv) its energy efficiency and performance characteristics as measured by tests carried out by an institution recognized 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 and the year, 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 that the institution has met the criteria for recognition set by the Director;
 - (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 information submitted to the Director under section 6 occurs, 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 those 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 specified person still supplies the model in Hong Kong; 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 he no longer supplies a listed model in Hong Kong, 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 15; or
- (b) remove the reference number of that model from the record under section 17.

12. Specified person to update energy efficiency grading on initiative of Director

(1) If the Director revises or approves any revisions to the calculation method of the energy efficiency grading of a prescribed product specified in the approved code of practice, the Director is to serve an updating notice on every specified person to whom a reference number that is included in the record has been assigned in respect of the product.

(2) In an updating notice, the Director is to—

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

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

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

(5) For the avoidance of doubt—

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

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

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

13. 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 and to imprisonment for 6 months.

14. 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 information referred to in paragraphs (a), (b) and (c);

- (e) any up-to-date information submitted under section 10; and
- (f) such other particulars as the Director considers appropriate and any change in such particulars.

(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

15. 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 34(2)(a) and may be extended by the Director if he considers that there are reasonable grounds for doing so.

(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 or by an extension under subsection (3)) 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.

16. Power of Director to serve prohibition notice

(1) The Director may serve a prohibition notice on a person who supplies 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.

**17. 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 those 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.

18. 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 17, 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 17.

19. 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 17, 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 6.

20. 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.

21. False information, etc.

(1) A person who, in purported compliance with a requirement under section 6, 7, 9, 10 or 20, 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.

22. Appointment of authorized officers

The Director may in writing appoint any public officer not below the rank of assistant electrical inspector to be an authorized officer for the purpose of this Ordinance.

23. 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.

24. 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.

**25. Power to enter premises with warrant
under section 26 in other cases**

(1) Where a warrant has been issued under section 26 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, 13 or 21;
- (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) Where an authorized officer enters any premises under a warrant, if so requested, he is to produce the warrant for inspection.

(3) 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.

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

(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, 13 or 21 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, 13 or 21.

(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.

27. Power of detention

(1) An authorized officer may, during the time when he remains in the premises entered under section 25 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 25.

(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.

28. 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.

29. 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 24(2)(e) or 25(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.

30. 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.

31. 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 13;
- (b) has served a prohibition notice on a supplier of a prescribed product under section 16; or
- (c) has removed from the record the reference number assigned to a listed model of a prescribed product under section 17,

the Director may take either or both of the actions specified in subsection (2).

- (2) The actions that the Director may take under subsection (1) are—
- (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; and
 - (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.

32. Compensation for seizure and detention of products

(1) Where a prescribed product has been seized or detained by an authorized officer under section 24 or 25, 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

33. 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 15 to serve an improvement notice;
 - (c) a direction specified by the Director in an improvement notice under section 15;
 - (d) a decision of the Director under section 16 to serve a prohibition notice; or
 - (e) a decision of the Director under section 17 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.

34. 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.

35. 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.

36. Appeal board

- (1) Within 21 days after receiving a notice of appeal delivered by the Director under section 34, 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.

37. 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.

38. 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.

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

39. 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.

(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.

40. Privileges and immunities of members of appeal board and witnesses

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

(2) A witness, party to any appeal or representative appearing before the appeal board is entitled to the same privileges and immunities as he would have in civil proceedings in the Court of First Instance.

41. Majority decision

(1) The determination under section 39 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

42. 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) The Director is to, before exercising the powers under subsections (1), (3) and (5), consult as the Director thinks fit such organizations which, in the opinion of the Director, represent the interests of—

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

of energy-using products to which the code of practice applies.

(7) 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.

(8) 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.

(9) 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.

43. 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 42(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

44. 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.

45. Liability of employers

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

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

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

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

46. 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.

47. 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 addressed to the Director and 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 addressed to the individual and delivered to him 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 addressed to the company and 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 addressed to the body and delivered to any place in Hong Kong at which the body carries on business and given 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 addressed to the partnership and delivered to any place in Hong Kong at which the partnership carries on business and given 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.

48. 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.

49. Time limit for prosecution of offences

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

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

50. 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.

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

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

(4) 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.

52. 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.

53. 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—

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

54. Power of Secretary to amend Schedules

(1) The Secretary may by order published in the Gazette amend Schedules 1, 2 and 3.

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

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

55. 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.

**56. 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 and the year, 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, 54 & 56 &
Sch. 3]

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 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 & 54]

SPECIFICATION OF ENERGY LABELS

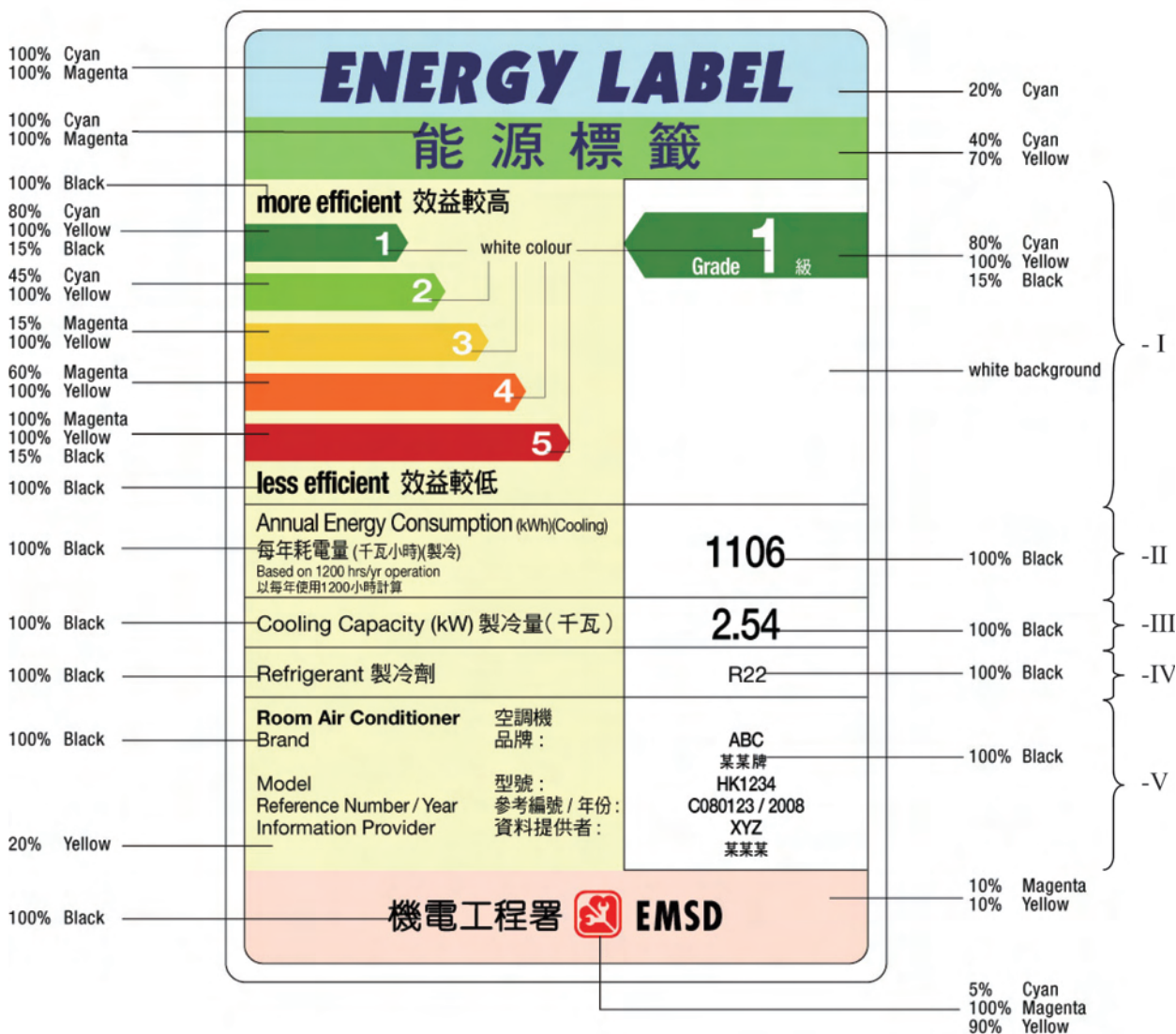
PART 1

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.

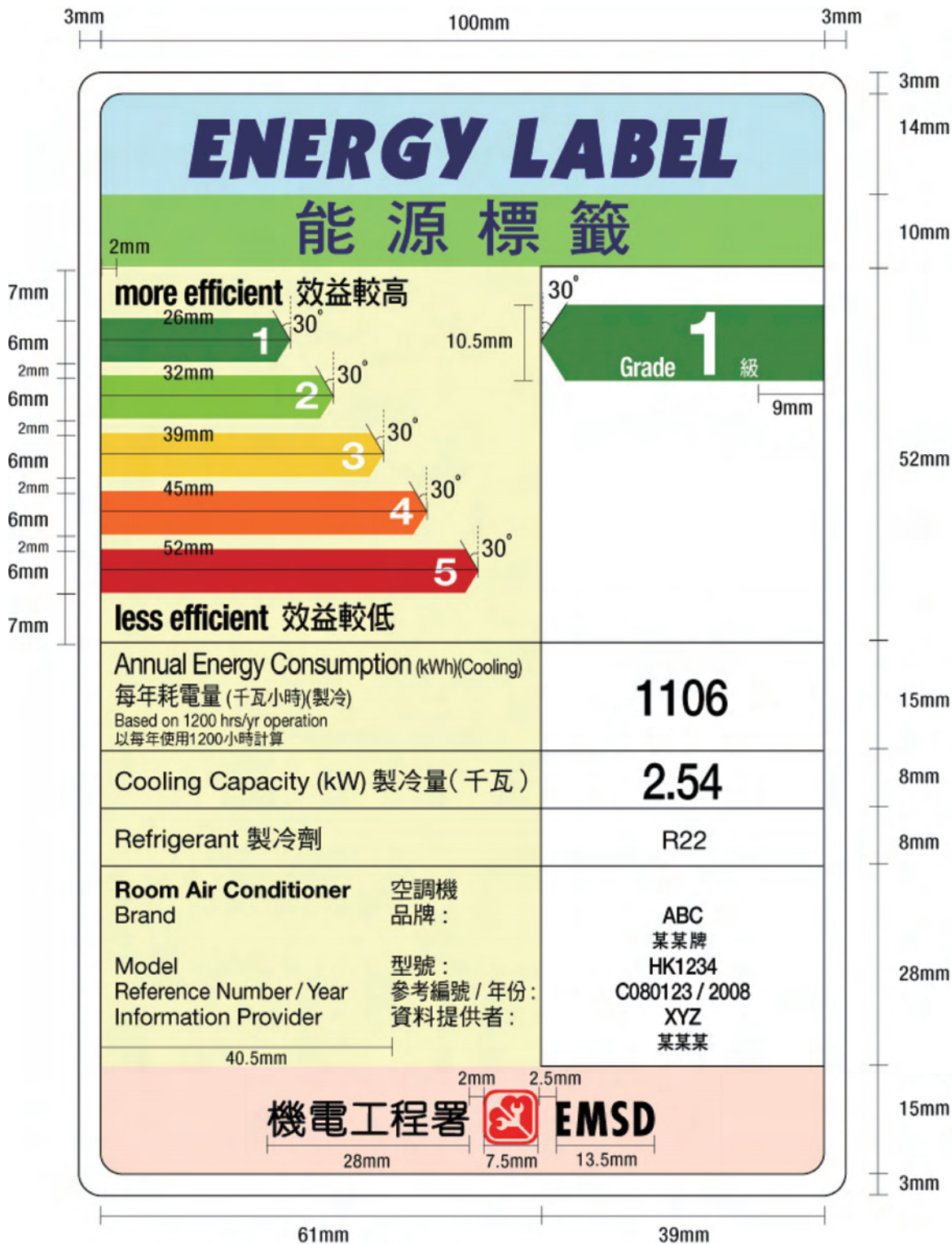
PART 2

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—



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 1200 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, the year in which the reference number is assigned or, where the energy efficiency grading is calculated in accordance with the new calculation method under section 12 of this Ordinance, the year in which the new calculation method takes effect 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) |

| Description on the Energy Label | Font and font size |
|--|--|
| 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 1200 hrs/yr operation | 7 point Helvetica Roman (English) |
| 以每年使用 1200 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 | 9 point Helvetica Bold (English) |
| 空調機 | 9 point DFHeiMedium (Chinese) |
| Brand | } 9 point Helvetica Roman (English) |
| Model | |
| Reference Number / Year | |
| Information Provider | |
| 品牌： | } 9 point DFHeiMedium (Chinese) |
| 型號： | |
| 參考編號 / 年份： | |
| 資料提供者： | |

| Description on the Energy Label | Font and font size |
|--|--|
| Characters of brand, model, reference number, year 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. (1) Subject to subsection (3), the energy label is to be attached or affixed to a prominent position of the room air conditioner and is to be clearly visible.

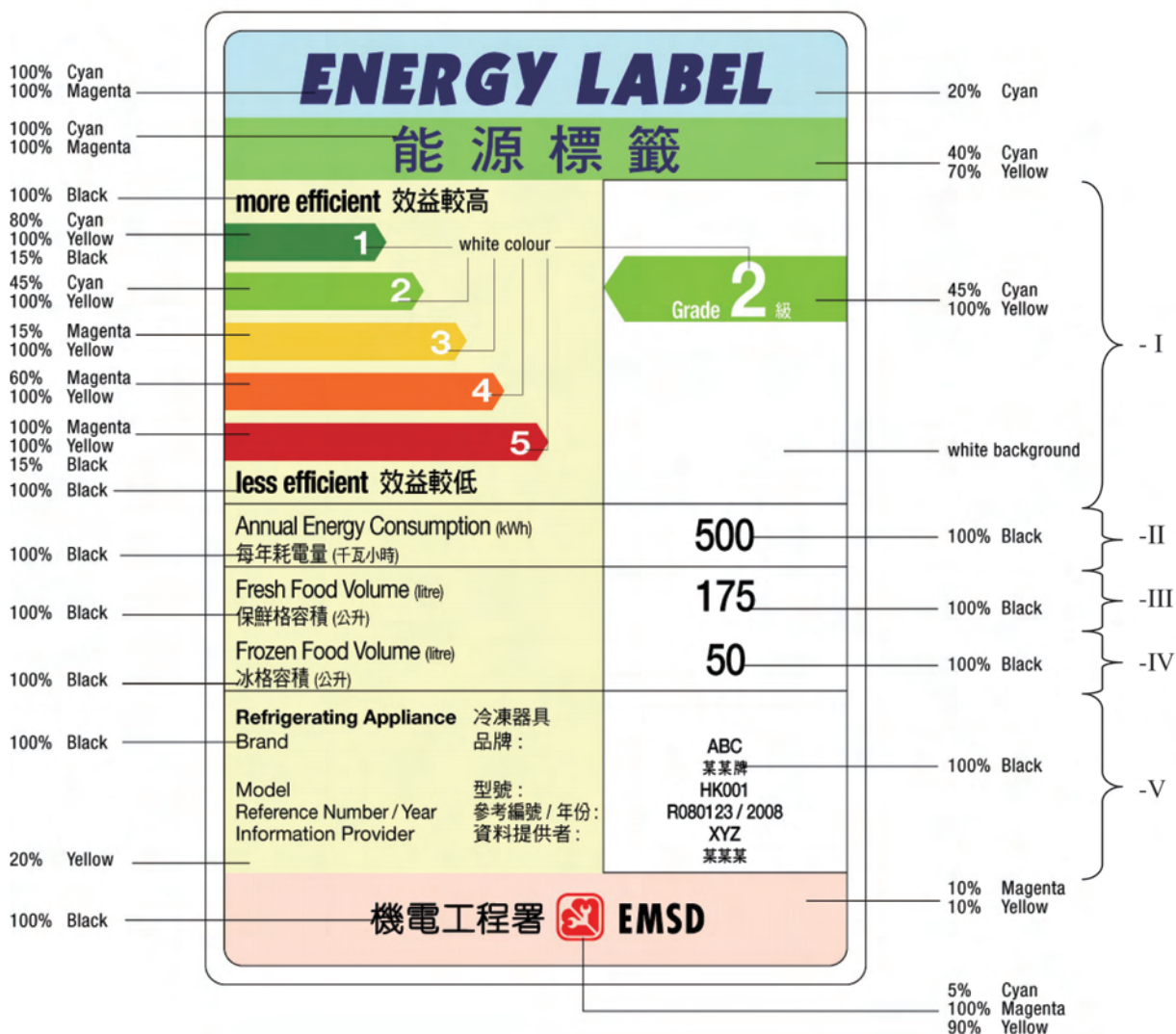
(2) For the avoidance of doubt, if only part of the room air conditioner is being exhibited, the energy label is to be attached or affixed to a prominent position of that part and is to be clearly visible.

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

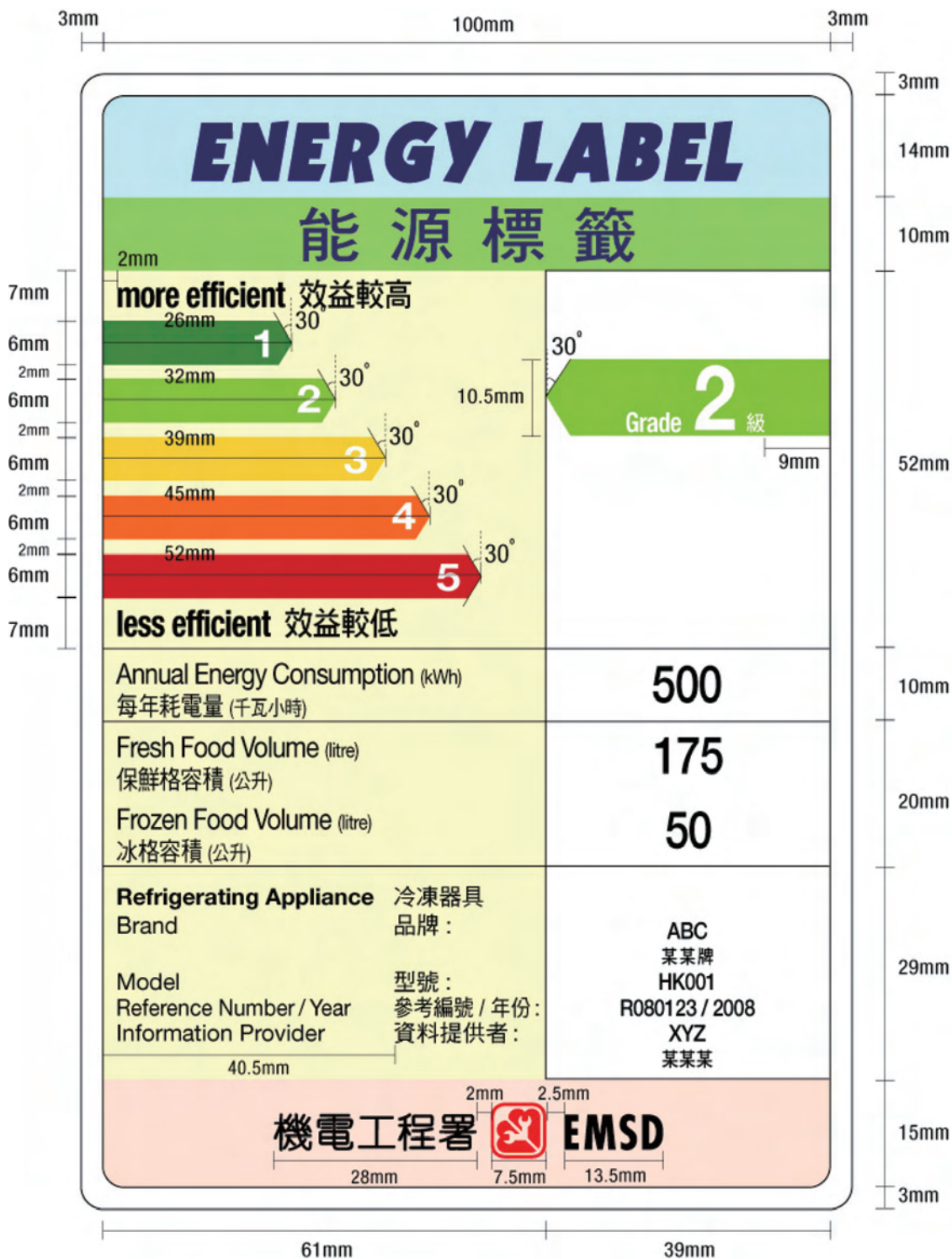
PART 3

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, the year in which the reference number is assigned or, where the energy efficiency grading is calculated in accordance with the new calculation method under section 12 of this Ordinance, the year in which the new calculation method takes effect 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 / Year | |
| Information Provider | |
| 品牌： | } 9 point DFHeiMedium (Chinese) |
| 型號： | |
| 參考編號 / 年份： | |
| 資料提供者： | |
| Characters of brand, model, reference number, year and information provider on the right | 9 point Helvetica Roman (English) 7.5 DFHeiMedium (Chinese) |

| Description on the Energy Label | Font and font size |
|---------------------------------|--|
| 機電工程署 | 16 point Monotype Yuen (Chinese) |
| EMSD and its logo | 17.9 point Futura Bold Condensed (English) |

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

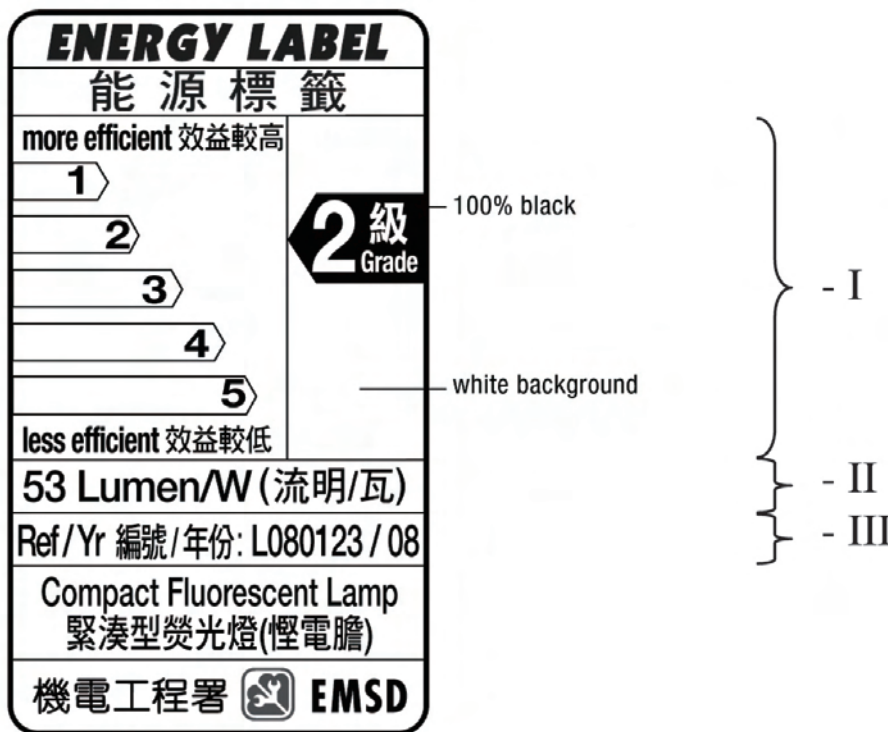
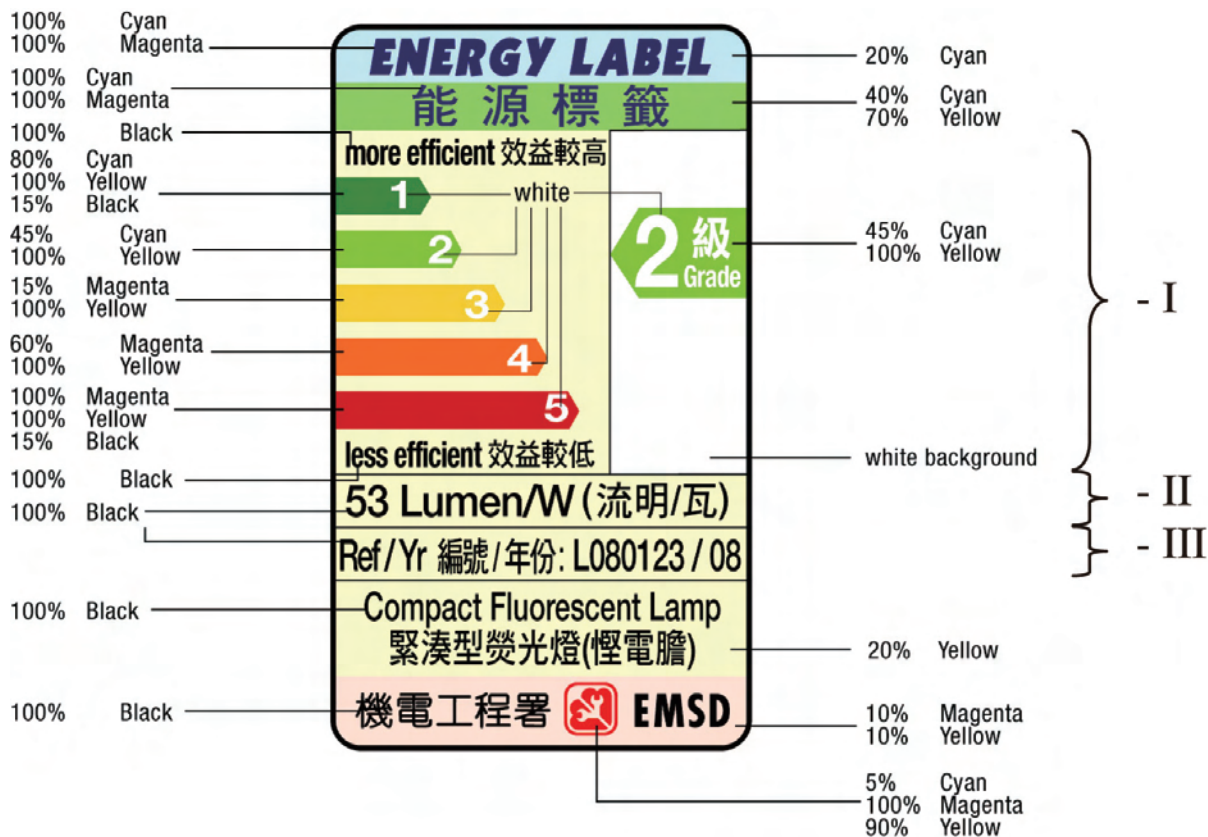
(2) For the avoidance of doubt, if only part of the refrigerating appliance is being exhibited, the energy label is to be attached or affixed to a prominent position of that part and is to be clearly visible.

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

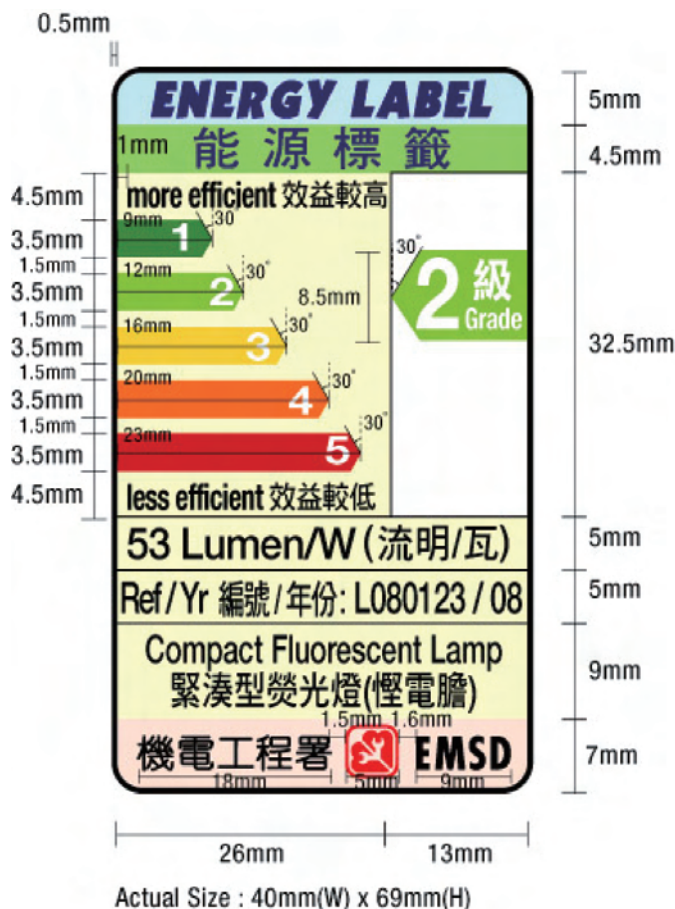
PART 4

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. |

| Area | Information to be contained |
|------|--|
| 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, the year in which the reference number is assigned or, where the energy efficiency grading is calculated in accordance with the new calculation method under section 12 of this Ordinance, the year in which the new calculation method takes effect. |

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 | 11.8 point Helvetica Neue Medium (English) |
| (流明/瓦) | 10.8 point DFHeiBold (Chinese) |
| Figure of lumen/W | 11.8 point Helvetica Neue Medium (English) |
| Ref / Yr | 11.8 point Helvetica Neue Medium (English) |
| 編號 / 年份 : | 10.8 point DFHeiBold (Chinese) |
| Characters of reference number and year | 11.8 point Helvetica Neue Medium (English) |
| Compact Fluorescent Lamp | 10.65 point Helvetica Neue Medium (English) |
| 緊湊型熒光燈 (慳電膽) | 10.65 point DFHeiBold (Chinese) |

| Description on the Energy Label | Font and font size |
|---------------------------------|--|
| 機電工程署 | 10.4 point Monotype Yuen (Chinese) |
| EMSD and its logo | 11.6 point Futura Bold Condensed (English) |

5. The energy label is to be—

- printed on or affixed to a prominent position of the individual product packaging and is to be clearly visible; or
- 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—

- 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.
- 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.
- 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.

SCHEDULE 3

[ss. 12 & 54]

CONDITIONS

1. The conditions specified for the purposes of section 12(4) of this Ordinance are that—
- the prescribed product is a room air conditioner or refrigerating appliance that is specified respectively in section 1 or 2 in Part 1 of Schedule 1 and has been manufactured in or imported into Hong Kong before the effective date; or

- (b) the prescribed product is the subject of a contract—
 - (i) that has been entered into before the effective date for the procurement of the product; and
 - (ii) under which the product is to be supplied as part of or in connection with the disposition of any specified premises.

2. In this Schedule, “effective date” (生效日期) means the date stated by the Director in an updating notice under section 12(2)(a)(ii) of this Ordinance as the date on which the new calculation method of the energy efficiency grading of a prescribed product takes effect.