

立法會
Legislative Council

LC Paper No. CB(1) 1751/08-09
(These minutes have been seen
by the Administration)

Ref : CB1/SS/4/08/1

**Subcommittee on
Product Eco-responsibility (Plastic Shopping Bags) Regulation**

**Minutes of fifth meeting
held on Monday, 16 March 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Albert CHAN Wai-yip
Hon Vincent FANG Kang, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon KAM Nai-wai, MH
Hon CHAN Hak-kan
Hon Tanya CHAN
- Member absent** : Hon LEE Wing-tat
- Public officers attending** : Environmental Protection Department

Mr Albert LAM, JP
Deputy Director of Environmental Protection

Mr Alfred LEE
Assistant Director (Waste Management Policy)

Mr Kenneth CHAN
Principal Environmental Protection Officer (Territorial Control)

Mr TE Chi-wang
Senior Administrative Officer (Waste Management Policy Division)

Department of Justice

Miss Shandy LIU
Senior Government Counsel
Law Drafting Division

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

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mrs Mary TANG
Senior Council Secretary (1)2

I. Meeting with the Administration

- (LC Paper No. CB(1) 966/08-09(20) — Assistant Legal Adviser's letter dated 25 February 2009 to the Administration
- LC Paper No. CB(1) 966/08-09(21) — Assistant Legal Adviser's letter dated 27 February 2009 to the Administration
- LC Paper No. CB(1) 1002/08-09(01) — Administration's response to CB(1) 966/08-09(20) and (21)
- LC Paper No. CB(1) 1002/08-09(02) — List of follow-up actions arising from the discussion at the meeting on 5 March 2009
- LC Paper No. CB(1) 1026/08-09(01) — List of follow-up actions arising from the discussion at the meeting on 11 March 2009
- LC Paper No. CB(1) 1036/08-09(01) — Administration's response to item 1 of CB(1) 1002/08-09(02)
- LC Paper No. CB(1) 1036/08-09(02) — Administration's response to item 2 of CB(1) 1002/08-09(02)
- LC Paper No. CB(1) 1036/08-09(03) — Administration's response to CB(1) 1026/08-09(01))

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

2. The Administration was requested to -

- (a) provide in proposed section 10 a right to a registered retailer to respond to the Director's case before an exemption was revoked;

- (b) state clearly in proposed section 12(1) that registered retailers operating less than three months were still required to submit quarterly returns;
- (c) simplify the application for registration as far as possible. Information pertaining to a business registration under the Business Registration Ordinance (Cap. 310), such as address of registered office, name and address of individual partners of partnership, should not be repeated in the application and such information need not be updated separately under the Regulation;
- (d) state clearly in the specified forms the party which would be held accountable/liable for provision of accurate information, since failure of which would be subject to criminal liability;
- (e) include in the review of the environmental levy scheme the feasibility of using different plastic shopping bags for exempted counters and non-exempted counters to dispense with the need for quarterly returns for the former;
- (f) relay to the Secretary for the Environment members' request for his presence at the next meeting on 19 March 2009; and
- (g) provide the Administration's response to members' concerns raised at the meetings on 13 and 16 March 2009, as well as the proposed amendments to the Regulation by close of play on 17 March 2009.

3. Members agreed to continue discussion on the Regulation and to examine the amendments proposed by the Administration at the next meeting scheduled for Thursday, 19 March 2009, at 8:30 am

II. Any other business

4. There being no other business, the meeting ended at 10:40 am.

Council Business Division 1
Legislative Council Secretariat
27 May 2009

**Subcommittee on
Product Eco-responsibility (Plastic Shopping Bags) Regulation**

**Proceedings of the meeting
on Monday, 16 March 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000440 - 000559	Chairman	Opening remarks	
<i>Agenda Item I - Meeting with the Administration</i>			
000600 - 001359	Chairman Mr Andrew LEUNG Administration	<p>Continuation of clause-by-clause examination of the Regulation</p> <p>Section 9 - Determination of application for exemption or variation of exemption</p> <p>Discussion on exemption and third party operation</p> <p>Mr Andrew LEUNG's view that retailers could circumvent the levy scheme by selling two kinds of specified goods at the same store while allowing the third kind of specified goods by a third party operator</p> <p>Administration's explanation -</p> <p>(a) if only two kinds of specified goods were offered for sale within the entire premises of a retail outlet, that outlet would not be regarded as a qualified retail outlet and hence would not be subject to the levy scheme. Likewise, a third party operator selling only one kind of specified goods in an area that did not form part of a retail outlet of another retailer would also not be subject to the levy scheme; and</p> <p>(b) subject to all relevant circumstances of individual cases, if two separate legal entities operating side by side under separate business registration certificates, they would</p>	

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		<p>theoretically be regarded as separate companies for the purposes of the levy scheme even though they might be the subsidiaries of the same parent company</p>	
001400 - 001905	<p>Chairman Mr Vincent FANG Administration</p>	<p>Mr Vincent FANG's enquiry on whether a multi-storey department store selling only one kind of specified goods at each floor would be eligible for exemption</p> <p>Administration's explanation -</p> <p>(a) a department store which sold all three kinds of specified goods and met the retail floor area requirement of a prescribed retailer would be subject to the levy scheme;</p> <p>(b) the department store could apply for exemption in respect of areas not selling specified goods if these occupied more than 50% of the retail floor area; and</p> <p>(c) under proposed section 9(3)(b), each part of the area to be exempted should be a cashier's counter that accepted payment for non-specified goods only</p>	
001906 - 002429	<p>Chairman Assistant Legal Adviser 5 (ALA5) Administration Mr Andrew LEUNG Mr Vincent FANG</p>	<p>Discussion on section 9(5)(a)(iii) which empowered the Director to impose conditions from time to time</p> <p>Administration's agreement to amend the relevant section to give the retailer an opportunity to make representations as to why conditions should not be imposed</p>	
002430 - 002805	<p>Chairman Administration</p>	<p>Section 10 - Revocation of exemption</p> <p>Administration's agreement to amend the relevant section to give the retailer an opportunity to make representations</p>	<p>The Administration to provide in proposed section 10 a right to a registered retailer to respond to the Director's case before an</p>

Time marker	Speaker	Subject(s)	Action required
			exemption was revoked
002806 - 004035	Chairman Mr Vincent FANG Administration	Section 11 - Right of appeal to Appeal Board against Director's decisions Section 12 - Submission of quarterly returns Discussion on the direct and indirect provision of plastic shopping bags (PSBs)	
004036 - 004311	Chairman ALA5 Administration Mr Vincent FANG	Mr Vincent FANG's indicated that - (a) the retail trades found the requirement on submission on quarterly returns under the levy scheme overly cumbersome; and (b) consideration should be given to allowing the trades to pay the levy on a quarterly basis upon ordering of PSBs from manufacturers	
004312 - 005649	Chairman Mr WONG Ting-kwong Administration	Mr WONG Ting-kwong's concerns - (a) whether spotchecks on record keeping of PSBs would be made; and (b) whether different PSBs could be used for exempted and non-exempted counters Administration's explanation - (a) cross-checking of quarterly returns on PSBs would help identify major discrepancies; (b) use of different PSBs for exempted and non-exempted counters were not required but returns on the number of bags provided from both types of counters had to be made	
005650 - 005801	Chairman Mr Andrew LEUNG Administration	Discussion on third party operation Administration's agreement to include in the Regulation a second category of exemption for third party operation	

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005802 - 010329	Chairman Administration	Chairman's request to clearly state in proposed section 12(1) that registered retailers operating less than three months would still be required to submit quarterly returns	The Administration to state clearly in proposed section 12(1) that registered retailers operating less than three months were still required to submit quarterly returns
010330 - 010556	Chairman Mr Vincent FANG Administration	Section 13 -Payment of levies Section 14 -Record keeping Section 15 - Payment under assessment notices Section 16 - Specified forms	
010557 - 010648	Chairman Mr Vincent FANG Administration	Mr Vincent FANG's request for the attendance of Secretary for the Environment (SEN) at the next meeting on 19 March 2009	The Administration relay to SEN members' request for his presence at the next meeting on 19 March 2009
010649 - 011947	Chairman Administration Mr WONG Ting-kwong Miss Tanya CHAN	Examination of the specified forms set out in annexes A and B to LC Paper No. CB(1)1036/08-09(03) on application for registration and notification of change of information Mr WONG Ting-kwong's request to simplify the application for registration as far as possible given that information pertaining to a business registration need not be repeated as such had already been provided pursuant to the Business Registration Ordinance (Cap. 310)	The Administration to simplify the application for registration as far as possible. Information pertaining to a business registration under the Business Registration Ordinance (Cap. 310), such as address of registered office, name and address of individual partners of partnership, should not be repeated in the application and such information need not be updated separately under the Regulation

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011948 - 014329	Chairman Administration Mr WONG Ting-kwong Mr Albert CHAN ALA5	Examination of the specified forms as set out in annex C , D and E of LC Paper No.CB(1) 1036/08-09(03) on the application for variation of exemption, quarterly returns on PSB levy and application for deregistration Members' concern about the party which would be held accountable/liable for the provision of accurate information, since failing which would be subject to criminal liability	The Administration to state clearly in the specified forms the party which would be held accountable/liable for provision of accurate information, since failure of which would be subject to criminal liability
014330 - 015227	Chairman Mr Vincent FANG Administration	Mr Vincent FANG's query on the need for prescribed retailers to account for PSBs distributed at exempted counters when filing quarterly returns	
015228 - 015639	Chairman Mr Andrew LEUNG Administration	Mr Andrew LEUNG's suggestion of using different PSBs for exempted counters and non-exempted counters	
015640 - 015811	Chairman Mr WONG Ting-kwong	Mr WONG Ting-kwong's request for an early review of the Regulation	
015812 - 020021	Chairman Mr Albert CHAN Administration Mr CHAN Hak-kan	Discussion on electronic filing of quarterly returns	
020022 - 020702	Chairman Mr Vincent FANG Administration	Discussion on the feasibility of using different PSBs for exempted counters and non-exempted counters to dispense with the need for quarterly returns for the former	The Administration to include in the review of the environmental levy scheme the feasibility of using different PSBs for exempted counters and non-exempted counters to dispense with the need for quarterly returns for the former
020703 - 021130	Chairman Mr Vincent FANG	Members' agreement to hold the next meeting on Thursday, 19 March 2009, at 8:30 am	The Administration to provide the its response to members' concerns raised at the meetings on 13 and 16 March 2009, as

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			well as the proposed amendments to the Regulation by close of play on 17 March 2009

Council Business Division 1
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27 May 2009