

立法會
Legislative Council

LC Paper No. CB(1)1164/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/BC/9/12/1

Bills Committee on Product Eco-responsibility (Amendment) Bill 2013

Minutes of tenth meeting
held on Wednesday, 8 January 2014, at 8:30 am
in Conference Room 2A of the Legislative Council Complex

Members present : Dr Hon Kenneth CHAN Ka-lok (Chairman)
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Hon KWOK Wai-keung
Dr Hon Helena WONG Pik-wan
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Members absent : Hon Vincent FANG Kang, SBS, JP
Hon CHAN Hak-kan, JP
Hon Paul TSE Wai-chun, JP
Hon CHAN Han-pan
Hon Tony TSE Wai-chuen

Public Officers attending : **For item II**

Mr Andrew LAI, JP
Deputy Director of Environmental Protection (3)
Environmental Protection Department

Mr Samson LAI
Assistant Director of Environmental Protection
(Waste Management Policy)
Environmental Protection Department

Miss Selina LAU
Senior Government Counsel
Department of Justice

Miss Libera CHENG
Senior Administrative Officer
(Waste Management Policy Division)
Environmental Protection Department

Clerk in Attendance : Ms Miranda HON
Chief Council Secretary (1)1

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Mr Ken WOO
Senior Council Secretary (1)5

Action

I. Confirmation of minutes

(LC Paper No. CB(1)644/13-14 — Minutes of the meeting held on
8 November 2013)

1. The minutes of the meeting held on 8 November 2013 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)671/13-14(01) — List of follow-up actions
arising from the meeting on
17 December 2013

LC Paper No. CB(1)671/13-14(02) — Administration's response to
the issues raised at the meeting
on 17 December 2013

Action

Draft Committee Stage amendments proposed by the Administration

- LC Paper No. CB(1)587/13-14(01) — Draft Committee Stage amendments proposed by Hon WU Chi-wai (Chinese version only)
- LC Paper No. CB(1)557/13-14(01) — Marked-up copy of the Bill showing the draft Committee Stage amendments to be moved by the Administration prepared by the Legal Service Division
- LC Paper No. CB(1)432/13-14(01) — Draft Committee Stage amendments proposed by the Administration
- LC Paper No. CB(1)280/13-14(01) — An information note provided by Hon WU Chi-wai on his proposed Committee Stage amendments (Chinese version only)

Relevant papers

- LC Paper No. LS17/13-14 — Note on "Comment on the Administration's response to the follow-up issues arising from the fifth meeting" prepared by the Legal Service Division
- LC Paper No. CB(1)112/13-14(01) — Administration's response to issues arising from the Bills Committee meeting on 8 October 2013
- LC Paper No. CB(1)2667/11-12(01) — Administration's supplementary paper on extension of the Environmental Levy Scheme on Plastic Shopping Bag)

Action

2. The Bills Committee deliberated (index of proceedings attached at the **Annex**).

- Admin 3. The Administration was requested to –
- (a) provide information on the classification of plastic bags in landfill surveys and the survey findings in recent years;
 - (b) regarding the English text of the proposed section 1(4) of Schedule 5, clarify whether the word "this" or "that" should be used before the word "Ordinance";
 - (c) in the light of the proposed repeal of section 13(2)(a) and (b) of the Product Eco-responsibility Ordinance (Cap. 603) ("the PERO") which provides for appeals against rejections of applications on matters specified in sections 19 and 23 of the PERO respectively and the proposed repeal of Parts 2 and 3 of the Product Eco-responsibility (Plastic Shopping Bags) Regulation (Cap. 603A), advise whether and how an application made under section 13(1) against a decision of any such rejection which was made on or after 1 April 2015 would be dealt with;
 - (d) in the light of the proposed repeal of section 20 of the PERO which provides that the Director of Environmental Protection must maintain a register containing the information which was specified in section 20(1) of the PERO, advise how the Administration would keep the records of the information so specified during the period which Schedule 5 was applicable;
 - (e) advise the results of the Administration's discussion with the Hong Kong Retail Management Association on the feasibility of the retail trade to publish the distribution figures of plastic shopping bags on an annual basis after the implementation of the proposed extension of the Environmental Levy Scheme on Plastic Shopping Bags (paragraph 6 of LC Paper No. CB(1)671/13-14(02) refers); and
 - (f) provide a written response to the draft Committee Stage amendments proposed by Mr WU Chi-wai.

Action

4. Members agreed to continue discussion at the next meeting to be held on Wednesday, 15 January 2014 at 8:30 am.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, the next meeting of the Bills Committee originally scheduled for 15 January 2014 had been rescheduled to Tuesday, 18 February 2014, at 8:30 am. Members were informed of the above arrangement vide LC Paper No. CB(1)766/13-14 issued on 21 January 2014.)

III. Any other business

5. There being no other business, the meeting ended at 9:55 am.

Council Business Division 1
Legislative Council Secretariat
25 March 2014

Bills Committee on Product Eco-responsibility (Amendment) Bill 2013

**Proceedings of the tenth meeting
on Wednesday, 8 January 2014, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000315 – 000449	Chairman	Opening remarks	
<i>Agenda Item I - Confirmation of minutes</i>			
000450 – 000515	Chairman	The minutes of the meeting held on 8 November 2013 (LC Paper No. CB(1)644/13-14) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000516 – 001807	Chairman Administration	The Administration's response to members' views and concerns raised at the meeting of the Bills Committee on 17 December 2013 (LC Paper No. CB(1)671/13-14(02)).	
001808 – 002248	Chairman Administration	<p>The Chairman remarked that the words "specifically designed for containing the goods" under the proposed section 1(4)(a) of Schedule 2 could be subject to different interpretations. A retailer, when giving a plastic shopping bag ("PSB") free of charge to a customer, might think that the proposed section would be applicable in such a case and hence did not consider or realize that he had committed an offence. As such, there would inevitably be cases where a retailer might dispute his liability under the relevant charge and the cases would have to be dealt with by court proceedings.</p> <p>The Administration's response that –</p> <p>(a) whether a bag fell under the relevant exemption provided under the proposed section 1(4)(a) of Schedule 2 would depend on actual circumstances. Guidelines would be provided to the retail trade to explain the principles involved in determining the scope of exemption under the above proposed section;</p> <p>(b) extensive education and publicity programmes would be organized for retailers and the public to enhance their understanding in the implementation of the proposed</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>extension of the Environmental Levy Scheme on Plastic Shopping Bags ("the extended Scheme"); and</p> <p>(c) enforcement officers would be given clear instructions on whether a case should be dealt with by fixed penalty or normal court proceedings.</p>	
002249 – 002853	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai referred to the Administration's explanation on the case of a bag commonly used by confectionary sellers in Annex B of LC Paper No. CB(1)671/13-14(02) and pointed out that –</p> <p>(a) the proposed section 1(4)(a) of Schedule 2 might give rise to loopholes and disputes in enforcement as a bag "specifically designed" for containing specific goods might also be used to contain other goods that could be fitted into it; and</p> <p>(b) it was difficult to decide whether a bag was "specifically designed".</p> <p>The Administration's response that –</p> <p>(a) confectionaries were often sold in packs as shown in Figure 1 in Annex B. In cases where confectionaries were already contained individually in airtight packaging as shown in Figure 2 in Annex B, an ordinary PSB distributed by a seller would be subject to a mandatory charge under the proposed section 18A(2). If, however, a confectionary seller provided a carrying bag that resembled other confectionary packaging, the carrying bag would be regarded as a bag "specifically designed for containing the confectionaries" and would then be entitled to exemption provided under the proposed section 1(4)(a) of Schedule 2; and</p> <p>(b) in case a bag used as a "container" for specific goods was also used to contain other goods that could be fitted into it, the bag would not be exempted under the proposed section 1(4)(a) of Schedule 2.</p>	

Time marker	Speaker	Subject(s)	Action required
002854 – 003826	Chairman Ir Dr LO Wai-kwok Administration	<p>Ir Dr LO Wai-kwok sought the Administration's views on the following –</p> <p>(a) given that typical PSBs distributed by retailers served the same purpose as those "specifically designed" carrying bags, distribution of the former was in fact more preferable as they could be reused for general purposes; and</p> <p>(b) whether "gift packs" (福袋) containing pre-packaged foods/goods for sale during festive seasons were regarded as bags which were "specifically designed".</p> <p>The Administration's response that –</p> <p>(a) as a general rule, whether a carrying bag would be entitled to the exemptions under the Product Eco-responsibility (Amendment) Bill 2013 ("the Amendment Bill") would depend on the function of the bag. The bags did not have to be designed with special features in order to be regarded as "specifically designed"; and</p> <p>(b) the bags of the gift packs would be regarded as bags "specifically designed for containing the goods" under the proposed section 1(4)(a) of Schedule 2 and would be exempted.</p> <p>Ir Dr LO said that –</p> <p>(a) he was satisfied with the above arrangements which could minimize the possible inconvenience caused to retailers and customers. He urged the Administration to step up education and publicity programmes for retailers to help them avoid committing an offence inadvertently;</p> <p>(b) he supported the implementation of the extended Scheme in view of the effectiveness of the Environmental Levy Scheme on Plastic Shopping Bags ("PSB Levy Scheme") as demonstrated by a remarkable reduction in the number of PSBs disposed by the some 3 000 registered retail outlets from 657 million in 2009 to 156 million in 2012; and</p>	

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		<p>(c) he was impressed by the preciseness of the landfill surveys as observed during a recent visit, and urged the Administration to enhance publicity on its work on landfill surveys.</p>	
003827 – 004407	Chairman Mr WU Chi-wai Administration	<p>In response to Mr WU Chi-wai's question on the reason for the surge in the number of PSB disposal from 4 544 million in 2011 to 5 247 million in 2012, the Administration explained that the surge might be attributable to the increase in retail activities as well as number of tourist in recent years.</p> <p>Mr WU opined that the Individual Visit Scheme was launched back in 2003 and should not have accounted for the sudden surge in the number of PSB disposal from 2011 to 2012. He urged the Administration to find out the reason behind for the surge.</p>	
004408 – 005159	Chairman Ir Dr LO Wai-kwok Ms Cyd HO Mr WU Chi-wai Administration	<p>In reply to Ir Dr LO Wai-kwok, the Administration advised that it would be impossible to categorize the PSBs distributed by retailers of the three registered categories under the PSB Levy Scheme (i.e. supermarkets, convenient stores and medicare and cosmetics stores) during landfill surveys if the origins of the PSBs could not be ascertained.</p> <p>Ms Cyd HO said that –</p> <p>(a) she was pleased to note that PSBs distributed by retailers of the three registered categories were now made of much thinner materials and that a large number of them had in fact been reused properly for containing garbage. She requested the Administration to also collect such figure during landfill surveys; and</p> <p>(b) the Administration should encourage the retail industry to distribute PSBs made of more environment-friendly and thinner materials.</p> <p>Mr WU Chi-wai requested the Administration to provide information on the amount of other types of PSBs found in landfill surveys in recent years.</p> <p>The Administration undertook to reflect members' views on the landfill surveys to relevant staff of the Environmental Protection Department.</p>	Admin (paragraph 3(a) of the minutes refers)

Time marker	Speaker	Subject(s)	Action required
005200 – 010807	Chairman Administration	<p>Examination of the Committee Stage amendments ("CSAs") proposed by the Administration</p> <p>The Chairman drew members' attention to the latest legislative approach proposed by the Administration to include a specific commencement date as part of the Amendment Bill by way of CSAs instead of leaving it open until the publication of a commencement notice in the Gazette by the Secretary for the Environment. The Administration had explained that this would save the need and time for submitting another amendment bill/regulation to the Legislative Council afterwards to set out the commencement dates and other transitional and implementation details. He invited members' views on the above arrangements.</p> <p>Briefing by the Administration on its proposed CSAs (LC Paper Nos. CB(1)432/13-14(01) and CB(1)671/13-14(02))</p> <p>In response to the Chairman, the Administration advised that –</p> <p>(a) it had proposed 1 April 2015 as the commencement date in the draft CSAs. In this connection –</p> <p>(i) the final operating quarter for the PSB Levy Scheme would be 1 January to 31 March 2015;</p> <p>(ii) all returns and payment of levies should be made on or before 30 April 2015; and</p> <p>(iii) records relevant to the returns and payment of levies should be kept until 31 March 2020; and</p> <p>(b) the date as specified in the proposed section 3(1) of Schedule 5 in the Chinese text should read "1 April 2015".</p>	
010808 – 012225	Chairman Assistant Legal Adviser 10 ("ALA10") Administration	<p>In response to the concerns expressed by ALA10, the Chairman requested the Administration to –</p> <p>(a) regarding the English text of the proposed section 1(4) of Schedule 5, clarify whether the word "this" or "that" should be used before</p>	Admin (paragraph 3(b) of the minutes refers)

Time marker	Speaker	Subject(s)	Action required
		<p>the word "Ordinance";</p> <p>(b) in the light of the proposed repeal of section 13(2)(a) and (b) of the Product Eco-responsibility Ordinance (Cap. 603) ("the PERO") which provides for appeals against rejections of applications on matters specified in sections 19 and 23 of the PERO respectively and the proposed repeal of Parts 2 and 3 of the Product Eco-responsibility (Plastic Shopping Bags) Regulation (Cap. 603A), advise whether and how an application made under section 13(1) against a decision of any such rejection which was made on or after 1 April 2015 would be dealt with; and</p> <p>(c) in the light of the proposed repeal of section 20 of the PERO which provides that the Director of Environmental Protection must maintain a register containing the information which was specified in section 20(1) of the PERO, advise how the Administration would keep the records of the information so specified during the period which Schedule 5 was applicable.</p>	<p>Admin (paragraph 3(c) of the minutes refers)</p> <p>Admin (paragraph 3(d) of the minutes refers)</p>
012226 – 012446	Chairman Administration	<p>Regarding Mr WU Chi-wai's concerns expressed at previous meetings about putting in place a mechanism for monitoring the distribution of PSBs by retailers, the Chairman requested the Administration to –</p> <p>(a) advise the results of its discussion with the Hong Kong Retail Management Association on the feasibility of the retail trade to publish the distribution figures of PSBs on an annual basis after the implementation of the extended Scheme (paragraph 6 of LC Paper No. CB(1)671/13-14(02) refers); and</p> <p>(b) provide a written response to the draft CSAs proposed by Mr WU Chi-wai.</p>	<p>Admin (paragraph 3(e) of the minutes refers)</p> <p>Admin (paragraph 3(f) of the minutes refers)</p>
012447 – 012532	Chairman	Date of next meeting	