

立法會
Legislative Council

LC Paper No. CB(1)1392/13-14
(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 Eleventh meeting
held on Tuesday, 18 February 2014, at 8:30 am
in Conference Room 2B of the Legislative Council Complex

Members present : Dr Hon Kenneth CHAN Ka-lok (Chairman)
Hon Vincent FANG Kang, SBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan
Hon WU Chi-wai, MH
Hon Tony TSE Wai-chuen

Members absent : Hon CHAN Hak-kan, JP
Hon Paul TSE Wai-chun, JP
Hon Gary FAN Kwok-wai
Hon CHAN Han-pan
Hon KWOK Wai-keung
Dr Hon Helena WONG Pik-wan
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

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

Ms Mandy LI
Council Secretary (1)1

Action

I. Confirmation of minutes

(LC Paper No. CB(1)759/13-14 — Minutes of the meeting held on
29 November 2013)

The minutes of the meeting held on 29 November 2013 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)914/13-14(01) — List of follow-up actions
arising from the meeting on
8 January 2014

LC Paper No. CB(1)914/13-14(02) — Administration's response to
the issues raised at the meeting
on 8 January 2014

Action

Relevant papers

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)280/13-14(01) — An information note provided by Hon WU Chi-wai on his proposed Committee Stage amendments (Chinese version only))

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

3. The Bills Committee examined and supported the Committee Stage amendments ("CSAs") proposed by the Administration to the Bill. Having considered the Administration's response to address his concerns on monitoring the distribution of plastic shopping bags upon implementation of the proposed extension of the Environmental Levy Scheme on Plastic Shopping Bags, Mr WU Chi-wai confirmed that he would not further pursue his draft CSAs.

4. The Chairman concluded that the Bills Committee had completed scrutiny of the Bill.

Legislative timetable

5. The Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 19 March 2014 as proposed by the Administration. The Chairman informed members that the Bills Committee would report its deliberations to the House Committee on 28 February 2014, and the deadline for giving notice of CSAs to the Bill would be 10 March 2014.

III. Any other business

6. There being no other business, the meeting ended at 10:05 am.

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

**Proceedings of the eleventh meeting
on Tuesday, 18 February 2014, at 8:30 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000356 – 000439	Chairman	Opening remarks	
<i>Agenda Item I – Confirmation of minutes</i>			
000440 – 000502	Chairman	The minutes of the meeting held on 29 November 2013 (LC Paper No. CB(1)759/13-14) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000503 – 001245	Chairman Administration	The Administration's response to members' views and concerns raised at the meeting of the Bills Committee on 8 January 2014 (paragraphs 1 to 6 of LC Paper No. CB(1)914/13-14(02)).	
001246 – 003325	Chairman Ms Cyd HO Mr WONG Ting-kwong Mr Vincent FANG Mr WU Chi-wai Administration	<p>Discussion on the record keeping arrangements subsequent to the proposed repeal of the relevant parts of the Product Eco-responsibility Ordinance (Cap. 603) ("the PERO") which provided that the Director of Environmental Protection ("DEP") must maintain a register containing the information which was specified in PERO (paragraph 6 of LC Paper No. CB(1)914/13-14(02)).</p> <p>Ms Cyd HO pointed out that as the proposed extension of the Environmental Levy Scheme on Plastic Shopping Bags ("the extended Scheme") would apply to the entire retail sector, the Administration's proposal to publish on the website of the Environmental Protection Department ("EPD") a full list of registered retailers and registered retail outlets under the first phase of the Environmental Levy Scheme on Plastic Shopping Bags ("PSB Levy Scheme") as at the day before the commencement of the Amendment Ordinance might confuse the public after the extended Scheme had commenced.</p> <p>Mr WONG Ting-kwong and Mr Vincent FANG expressed a similar view and considered that the display of the above record unnecessary. Mr WONG opined that the proposed arrangement might give rise to misunderstanding and even disputes between</p>	

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		<p>retailers and customers.</p> <p>Mr WU Chi-wai drew members' attention to the fact that a full list of registered retailers, registered retail outlets and other compliance-related information had all along been published on EPD's website for reference of the public.</p> <p>The Administration advised that the proposed arrangement was a response to the concern of the Bills Committee expressed at the last meeting on the record keeping arrangements subsequent to the proposed repeal of section 20 of the PERO. The information would be historical records by that time and there would be suitable remarks to avoid causing confusion.</p>	
003326 – 003748	Chairman Administration	The Administration's response to members' views and concerns raised at the meeting of the Bills Committee on 8 January 2014 (paragraphs 7 to 9 of LC Paper No. CB(1)914/13-14(02)).	
003749 – 004921	Chairman Mr Tony TSE Ms Cyd HO Mr Vincent FANG Administration	<p>Discussion on the suggestion of the Hong Kong Retail Management Association ("HKRMA") on implementing a voluntary reporting system by encouraging the registered retailers covered by the first phase of the PSB Levy Scheme to provide their plastic shopping bags ("PSBs") usage to HKRMA on a yearly basis.</p> <p>Mr Tony TSE was pleased to note that some 2 960 outlets representing about 85% of the total number of retail outlets covered by the PSB Levy Scheme would support the proposed voluntary reporting system. He urged the Administration to work with HKRMA to encourage the remaining 15% of the retail outlets as well as other retailers to take part in the voluntary reporting system.</p> <p>Ms Cyd HO said that she accepted the proposed voluntary reporting system. To enhance the effectiveness of the extended Scheme, she requested the Administration to increase the frequency of landfill surveys in order to obtain more accurate findings on PSB disposal, and to work with HKRMA to discourage the use of laminated paper bags by retailers.</p>	

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		<p>Mr Vincent FANG expressed the views that –</p> <ul style="list-style-type: none"> (a) he had all along objected to the Product Eco-responsibility (Amendment) Bill 2013 ("the Amendment Bill") as the PSB charge collected by retailers was not mandated to support environmental causes; and (b) the Administration should target its efforts on lowering the number of PSB distribution by those retailers which belonged to the "Others" category as revealed in the landfill surveys which accounted for 80.94% of the total PSB disposal in 2012. <p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) it would continue to coordinate with HKRMA to encourage more retailers to join the proposed voluntary reporting system; (b) it would explore the possibility of increasing the frequency in conducting landfill surveys; and (c) HKRMA had informed the Administration that the registered retailers under the first phase of the PSB Levy Scheme had no intention to put the PSB charge to be collected under the extended Scheme as part of their operating income. HKRMA would encourage such retailers to donate the PSB charge to be collected to support environmental or other meaningful causes. 	
004922 – 005422	Chairman Mr WU Chi-wai	<p>Mr WU Chi-wai expressed the views that –</p> <ul style="list-style-type: none"> (a) he supported the Amendment Bill to inculcate behavioral changes to avoid excessive use of PSBs; (b) the Committee Stage amendments ("CSAs") proposed by him had prompted the Administration to discuss with HKRMA which had resulted in the proposed voluntary reporting system. As the initiative had, to certain extent, achieved the intended purpose of his CSAs, i.e. to make available data to help monitor the situation of PSB distribution upon the extension of the PSB Levy Scheme, he would not pursue his CSAs any more; and 	

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		(c) the Administration should work with HKRMA to come up with more concrete commitments, such as reporting the progress of the proposed voluntary reporting system in a year's time and collaborating with its member companies to set up a green fund to support environmental causes.	
005423 – 005921	Chairman Mr WONG Ting-kwong	Mr WONG Ting-kwong expressed the views that – (a) the removal of the existing compliance requirements under the extended Scheme would render retailers' need for designating dedicated personnel for the related work unnecessary. The sustainability of the proposed voluntary reporting system was therefore doubtful; and (b) given the fact that the coverage of the proposed voluntary reporting system was very small compared with the total volume of PSB distribution and the accuracy of landfill surveys was only average, the Administration should monitor the distribution of PSBs following the implementation of the extended Scheme by gathering statistics on the import figures.	
005922 – 010029	Chairman Mr WU Chi-wai	Mr WU Chi-wai – (a) urged the Administration to work with HKRMA to widen the coverage of the proposed voluntary reporting system by encouraging more retailers to participate; and (b) supported monitoring the effectiveness of the extended Scheme through different means, such as statistics on the import of PSBs.	
010030 – 010126	Chairman Administration	The Administration's response to members' views and concerns raised at the meeting of the Bills Committee on 8 January 2014 (paragraphs 10 and 11 of LC Paper No. CB(1)914/13-14(02)).	
010127 – 011502	Chairman Mr Vincent FANG Administration	In response to Mr Vincent FANG's enquiries on the categories of retailers to be exempted from the requirement on collection of PSB charge, the Administration explained that all retailers would be subject to the extended Scheme and hence be required to charge PSBs at the time of sale, except cases of exemptions provided under the proposed section 1(3) of Schedule 2.	

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		<p>Mr FANG considered that the exemption criteria proposed were confusing. He suggested exempting certain retailers, such as bakeries and cake shops and cooked food outlets, from the extended Scheme as the number of PSBs distributed by these retailers only accounted for 6.98% and 4.8% of the total number of PSB disposal at landfills in 2012 respectively. He urged the Administration to figure out the subdivisions of the retailers put under the "Others" category in landfill surveys which made up as much as 80.94% of the total PSB disposal in 2012. In his view, this would help the Administration to target its promotion and publicity efforts more effectively.</p> <p>The Administration explained that it was impossible to categorize the PSBs put under the "Others" category as their sources could not be identified. However, it was estimated that about 50% to 60% of PSB disposal put under this category were originated from wet market retailers. As their usage of PSBs in the extended Scheme would likely be exempted from the PSB charge on food hygiene grounds, it was expected that there would not be a drastic drop in the disposal figures on that PSB disposal category even after the PSB Levy Scheme was extended.</p>	
011503 – 012547	Chairman Mr WONG Ting-kwong Administration	<p>Mr WONG Ting-kwong –</p> <p>(a) relayed the anxiety expressed by various trades about the vagueness of the exemption criteria proposed under the Amendment Bill; and</p> <p>(b) requested the Administration to put in place a mechanism to give warning prior to issuing a fixed penalty notice.</p> <p>The Administration responded that of the more than 10 000 covert operations conducted since the PSB Levy Scheme was launched in July 2009, there had only been seven convictions. It would stage enhanced publicity and education programmes for the various trades with due regard to their unique operation mode.</p>	
012548 – 012838	Chairman Mr Vincent FANG	<p>Mr Vincent FANG expressed the views that –</p> <p>(a) the number of convictions under the first phase of the PSB Levy Scheme was not indicative of the number under the second phase since the former covered mainly large enterprises while the latter involved also SMEs which might lack the</p>	

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		<p>administrative capability to comply with the legal requirements; and</p> <p>(b) to avoid inconvenience and disputes between retailers and their customers, the Administration should consider exempting PSBs distributed for carrying all foodstuff as such an exemption would not make much difference in the number of PSBs distributed.</p>	
012839 – 013211	Chairman Assistant Legal Adviser 10 ("ALA10") Administration	<p>In response to ALA10's question, the Administration advised that if DEP rejected an application for registration or deregistration under section 19 of the PERO, or an application for exemption under section 23 of the PERO before 1 April 2015 (i.e. the proposed commencement date of the extended phase), the applicant might appeal to the Appeal Board against the decision under section 13 of the PERO if he was aggrieved by the decision. The right to appeal, once accrued, would be preserved under section 23 of the Interpretation and General Clause Ordinance (Cap. 1) even if the provision conferring the right (i.e. section 13(2)(a) and (b) of the PERO) was repealed. The Administration also advised that a person who disagreed with the assessed payable levy on an assessment notice might appeal according to section 7 of Schedule 5 of the proposed CSAs.</p>	
013212 – 013452	Chairman Ms Cyd HO Administration	<p>Closing remarks</p> <p>Legislative timetable</p>	