

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

This note sets out the Administration's response to the follow-up issues arising from the sixth meeting of the Bills Committee on the Product Eco-responsibility (Amendment) Bill 2013 ("the Amendment Bill"), held on 22 October 2013.

*(a) to consider amending the drafting style of the proposed sections 1(1)(d) and 1(3) in Schedule 2 so that the exceptions proposed in section 1(1)(d) and the exceptions to these exceptions which are provided under 1(3) can be merged into one provision;*

2. At this stage, the scope of exemption (both for food hygiene purpose under the proposed new section 1(1)(d) in Schedule 2 or for reason of forming part of the goods concerned under the proposed new section 1(1)(e)) is under deliberation at the Bills Committee, and there may be committee stage amendments ("CSAs"). As suggested at the last Bills Committee meeting, we will consider the drafting of this provision as a whole after we have completed the deliberation on the scope of exemption and CSAs for adjustments (if any).

*(b) to consider the need for the proposed section 1(3)(a) in Schedule 2, as it appears that the scope of the proposed section 1(3)(b) may have already included the said section 1(3)(a);*

3. A Member suggested possible improvement to the proposed section 1(3) in Schedule 2 which will be discussed in paragraph 5 below. If the suggestion is agreeable by the Bills Committee, we will be happy to propose the relevant CSA by which this issue will no longer exist.

*(c) to consider making provision(s) to allow an exemption for plastic shopping bags ("PSBs") provided by a seller which contain an item of "temperature-controlled food", i.e. food which will change its physical state due to temperature difference in the course of its conveyance and something may spill out of the packaging despite that such packaging may have already rendered no part of the food being exposed to the environment (such as butter); and*

4. At the last Bills Committee meeting, Members discussed the merits of the current food hygiene exemption proposal with the specific case of butter as an illustrative example. Referring to deliberation at previous Bills Committee meetings, we explained that –

- (a) the provisions relating to food hygiene exemption are intended to apply across the board to different types of food, drink or medicine that are for human or animal consumption. As revealed from the survey on food packaging methods, the same type of foodstuffs may be packaged in different ways; whether a food hygiene concern exists depends more on the packaging method than the food type. Accordingly, it would not be practical to spell out specific types of food for food hygiene exemption purposes;
- (b) under the Amendment Bill, we propose that food hygiene exemption should not be granted if –
  - (i) the foodstuff item is already contained in airtight packaging; or
  - (ii) even though not contained in airtight packaging, no part of the foodstuff item is exposed to the environment, and nothing may spill out of the packaging in the course of any conveyance.

For (i), we may refer to canned food and other foodstuff items in heat-sealed packaging as examples. But for (ii), so far no food packaging method that is known to us appears to be capable of satisfying (ii) which therefore serves as a “catch-all” purpose rather than referring to any specific real-life situations.

5. A Member suggested whether we may improve the Amendment Bill by repealing the proposed section 1(3)(b) in Schedule 2. We find this suggestion agreeable since doing so may clearly address concerns previously raised about the cases of fruit, ice-cream and more recently butter. Such adjustment is not expected to have practical impact because we see no real cases falling under the proposed section 1(3)(b) in Schedule 2. Subject to the Bills Committee’s agreement, we will prepare the necessary draft CSA for Members’ consideration.

6. We defer to the Bills Committee to advise whether the issue of granting exemption to all “temperature-controlled food” across the board requires further deliberation. Please refer to CB(1)1470/12-13(02).

*(d) to consider, given that the term "specifically designed" in the proposed section 1(4)(a) in Schedule 2 is not defined, whether a PSB to which the PSB charge applies pursuant to the proposed section 1(3) in the Schedule would nonetheless, under section 1(4)(a), be considered as a PSB specifically designed for containing the goods merely because the PSB provided by a seller is a bag which is used for the specific types of goods that it sells.*

7. When a plastic bag is provided by a seller to his customer in a retail sale, the seller will not have to collect from the customer the PSB charge if the plastic bag is NOT regarded as a plastic shopping bag (“PSB”) under (amongst others) the proposed new section 1(1)(d) in Schedule 2 for food hygiene purposes, or the proposed new section 1(1)(e) for reason that the bag forms part of the goods concerned. A PSB charge will not be required if the bag falls under either the proposed new section 1(1)(d) or the proposed new section 1(1)(e) or both. Whether the reference to “specifically designed” in the proposed new section 1(4)(a) carries a specific definition is not relevant.

**Environmental Protection Department  
November 2013**