

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

At its seventh meeting held on 8 November 2013, the Bills Committee on the Product Eco-responsibility (Amendment) Bill 2013 (“the Amendment Bill”) completed clause-by-clause examination. This note elaborates the Committee Stage Amendments (“CSAs”) that have been proposed.

The Administration’s CSAs

2. We shall propose four sets of CSAs¹. The first set, at Annex A, aims to amend the food hygiene exemption provisions taking into account the Bills Committee’s previous deliberation such that –

- (a) a foodstuff item already contained in airtight packaging will not be entitled to food hygiene exemption and will require a mandatory charge of 50 cents for each plastic shopping bag (“PSB”) provided; and
- (b) a foodstuff item that is in chilled or frozen state will be entitled such that a bag containing it will not be subject to the mandatory charge irrespective of how it is packaged.

We have also taken the opportunity to improve the drafting by incorporating the Assistant Legal Advisor’s comments.

3. The second set, at Annex B, is a textual minor amendment in anticipation of the commencement of the new Companies Ordinance (Cap 622) on 3 March 2014. In the Amendment Bill, Clause 4 contains a reference to “Cap 32” which should be revised as “Cap 622”.

4. The remaining two sets of CSAs jointly provide for the savings and transitional arrangements for the extension of the Environmental Levy Scheme on Plastic Shopping Bags (“PSB Levy Scheme”) and other necessary amendments to the Product Eco-responsibility (Plastic Shopping Bags) Regulation (Cap 603A; (“PSB Regulation”)) after a specific commencement date. More specifically –

¹ The proposed CSAs attached to this paper are prepared in a mark-up format on the Amendment Bill for ease of reading.

- (a) the third set of CSAs, at Annex C, will repeal provisions under the PSB Regulation that are relevant only to the initial phase (e.g. registration) and prescribe the statutory forms for the new fixed penalty system; and
- (b) the fourth set will specify the commencement date and will include provisions to ensure the remittance of the levy collected in the final quarter (or part of a quarter) immediately before the commencement date can be remitted to the Government under the existing compliance system. A draft is at Annex D for illustration².

5. With this new approach, we shall expedite the legislative process by completing all necessary amendments in one go. A specific commencement date will also facilitate the relevant stakeholders to get prepared for the extended scheme. Based on the experience in the current phase and noting the wider scope after the extension, we need about 12 months counting from the enactment of the Amendment Bill before the extended scheme can be brought into operation. This would allow sufficient lead time for our internal computer system enhancement, as well as publicity and public education programmes, and prepare the trade (especially the small and medium enterprises (“SMEs”)) for the implementation of the extension. We are also mindful of Members’ concerns raised at a previous Bills Committee meeting that we need to give due notice to exhibition organizers and other visitors.

6. We welcome Members’ views on the above arrangements and will prepare the necessary CSAs subject to Bills Committee’s deliberations.

Members’ Proposal

7. In his letter to the Bills Committee dated 7 November 2013, Hon Wu Chi-wai suggested to require “big retailers” to submit periodic returns to the Government and keep relevant records on the number of PSBs distributed (hereunder referred to as “relevant requirements”). By doing

² The draft at Annex D is tailored to cater for the scenario where the commencement date falls on a date that is compatible with the quarterly reporting cycle under the existing compliance system. It does not preclude the choice of other dates as the commencement date and in that case there will be further provisions to reconcile the detailed arrangements in the final round of remittance.

so, he hopes that the Government and the public may have more information to assess the effectiveness of the PSB Levy Scheme after its extension. He does not require the remittance of the PSB charge by those “big retailers”. He is also inclined to extend the relevant requirements to cover all retailers (including SMEs) by phases, and for that purpose will include a provision to require a review by the Legislative Council (“LegCo”) upon a certain period of time. Under his proposal, a seller will be regarded as a “big retailer” if he owns (a) 3 or more retail outlets in Hong Kong; or (b) at least one retail outlet in Hong Kong that has a retail floor area of not less than 100 square metres. We note that Hon Wu has raised the above proposal as a suggestion and he has not proposed specific CSAs. Based on the outline of the proposal raised by Hon Wu, we have the following comments –

Observations on Hon Wu Chi-wai’s Preliminary Proposal

8. By imposing certain compliance requirements on “big retailers” only, the “big retailers” would arguably be treated less favourably than the other smaller retailers, and any such difference in treatment may be criticized as being unfair. It is also necessary to consider the right to equality and non-discrimination which is protected under Article 22 of the Hong Kong Bill of Rights. Article 25 of the Basic Law also guarantees equality before the law.

9. As mentioned in our submission relating to the “dual” system in September 2012 (vide LC Paper No. CB(1)2667/11-12(01)), differences in legal treatment may be justified for good reason. For differential treatment to be justified, the difference in treatment must (i) pursue a legitimate aim. This would require that there be a genuine need for the difference in treatment; (ii) be rationally connected to the legitimate aim; and (ii) be no more than is necessary to achieve the legitimate aim. This is the “justification test” for assessing the constitutionality of a differential treatment. As a part of the “justification test”, the dividing line should not be arbitrarily drawn but should reasonably reflect a rational connection to the legitimate policy aim, and that the magnitude of the differential treatment must be proportionate to achieve the legitimate aim and be supported by objective and empirical figures and analysis.

10. It has been our clear policy intent from the outset that this producer responsibility scheme will be implemented by phases, with the first phase targeting at certain retailers, which were the main source of

PSB disposal³ according to a landfill survey conducted in 2005. Also it was widely accepted by then that as a start, the PSB Levy Scheme should be simple and easy to administer such that it could get off the ground smoothly, and thus a phased approach is acceptable. These are legitimate policy objectives justifying partial coverage of the PSB Levy Scheme. At the same time, we believe that the PSB Levy Scheme needs to extend to cover all retailers across the board and maintain a level-playing field in the retail sector as far as possible. This is further reinforced by the public consultation findings subsequently.

11. On the usefulness of evaluating the effectiveness of the PSB Levy Scheme through collecting periodic returns from retailers, we wish to stress that the information contained in the existing quarterly returns under the current phase is only one of the ways in assessing the effectiveness of the scheme. For instance, in the consultation document of 2011, we indicated that the scheme has been successful as the actual levy income (based on the quarterly returns and subsequent payments by the registered retailers) at about \$25 million per annum is significantly lower than \$200 million as originally envisaged. The record keeping requirement is in essence a measure to protect the Government's revenues as the relevant records may be used to assess the levy payable in case of doubts or non-compliance. The records and relevant documents are documentary proof required for safeguarding the collection of the environmental levy.

12. Under Hon Wu's proposal, only "big retailers" will be required to comply with the relevant requirements under the extended PSB Levy Scheme pending future review⁴. Unlike the current situation where the periodic returns will cover 100% of the retail outlets that are subject to the PSB Levy Scheme, his proposal is intended to collect partial data from a small portion of the retail industry. Statistically, the "big retailers" do not form any representative samples of the entire retail industry. We have mentioned in our reply to this Committee (vide LC Paper No. CB(1)1845/12/13(02)) that while we do not have the

³ The landfill survey of 2005 revealed that more than 20% of PSBs disposed of at landfills were distributed by supermarkets, convenience stores and personal beauty and beauty stores, and these stores jointly made up less than 4% of all retail outlets in Hong Kong.

⁴ We understand that Hon Wu's intention is to apply the relevant requirements across the board subject to favourable result of the review. By then, the data collected could be more meaningfully applied. On the other hand, SMEs might as a result be mandated to comply with administrative requirements which they might find burdensome. Findings of the public consultation however suggest that we should minimize such administrative burden by adopting a streamlined compliance system.

information as requested by Hon Wu on the number of “big retailers”, a survey conducted by the Census and Statistics Department in 2009 revealed that over 90% of the retail establishments had a retail floor or less than 100 square meters, and some of the establishments with larger floor area may have already been covered under the existing scheme. It will hence be difficult to perform any meaningful statistical analysis for the entire scheme based on only a segment of the data obtained from the “big retailers” as defined by Hon Wu.

13. In practice, we have been referencing other data sources such as the landfill disposal surveys to monitor PSB disposal at the landfills. This is a more comprehensive and consistent indicator of the effectiveness of the extended scheme. In addition, there could also be other means through which we may collect data and conduct analysis without relying on the records kept by “big retailers” which are not representative of the entire retail industry.

14. Based on the above, the requirement of periodic returns may arguably enable the collection of operational data in a segment of in the retail sector, i.e. number of PSBs distributed by the “big retailers”. It is however not apparent how such partial information can be used for assessing the effectiveness of the extended scheme in the entire retail trade.

15. Hon Wu has yet to clarify whether he intends to require the “big retailers” to be registered, nor the standard of accuracy and details of the information required under the relevant requirements, and whether any checking or penalty would be imposed for inaccurate or false information provided. If there is no statutory requirement for registration, compliance checking and penalty, reliability for supply and accuracy of report data cannot be assured. On the other hand, if registration and compliance checking are to be made statutory requirements, his proposal may lead to a “charging effect” on the Government because additional resources would be needed for publicizing the additional legal requirements, compliance checks and enforcement action in cases of non-compliance. Under Rule 57(6) of the LegCo Rules of Procedure, a CSA with “charging effect” may be proposed by a LegCo member only if the Chief Executive consents in writing to the proposal.

16. We will be happy to offer further comments as necessary taking into account the Bills Committee’s deliberation.

Environmental Protection Department
November 2013

18. Schedule 2 amended (plastic shopping bags to which this Ordinance does not apply)

- (1) Schedule 2, section 1(1)—

Repeal

“Subject to subsection (2), this”

Substitute

“subsection (3) This”.

- (2) Schedule 2, section 1(1)—

Repeal paragraphs (a) and (b).

- (3) Schedule 2, section 1(1)(c)(ii)—

Repeal

“retailer concerned.”

Substitute

“seller concerned;”.

- (4) Schedule 2, after section 1(1)(c)—

Add

“(d) a bag that only contains an item of food, drink or medicine for human or animal consumption where—

(i) the item is in a frozen or chilled state; or

(ii) the item is not contained in airtight packaging;

(e) a bag that forms part of the goods concerned.”.

- (5) Schedule 2, section 1—

Repeal subsection (2).

- (6) Schedule 2, at the end of section 1—

Add

~~“(3) Subsection (1) does not apply to a bag mentioned in subsection (1)(d)—~~

~~—(a) if the item of food, drink or medicine is already contained in airtight packaging; or~~

~~—(b) if—~~

~~—(i) the item of food, drink or medicine is already contained in such packaging that no part of the item is exposed to the environment; and~~

~~—(ii) nothing may spill out of the packaging in the course of any conveyance of the item.~~

~~—(4) For the purposes of subsection (1)(e), a bag is to be regarded as forming part of the goods if—~~

(a) the bag is specifically designed for containing the goods;

(b) the bag contains the goods, and the quality of the goods would deteriorate if they were not contained in the bag;

(c) the goods are in liquid form and contained in the bag, or the goods are in liquid contained in the bag; or

(d) information on how to consume or use the goods is printed, written or labelled on the bag.”.

4. Section 3 amended (interpretation)

Section 3(1)—

Add in alphabetical order

“body corporate (法人團體) means—

- (a) a company as defined by section 2(1) of the Companies Ordinance (Cap. ~~622~~³²); or
- (b) a company incorporated outside Hong Kong;”.

Part 3

Amendments to Product Eco-responsibility (Plastic Shopping Bags) Regulation

22. Product Eco-responsibility (Plastic Shopping Bags) Regulation amended

The Product Eco-responsibility (Plastic Shopping Bags) Regulation (Cap. 603 sub. leg. A) is amended as set out in sections 23, 24 and 25.

23. Section 2 amended (interpretation)

Section 2—

Repeal subsection (1).

24. Parts 2 to 5 repealed

Parts 2, 3, 4 and 5—

Repeal the Parts.

25. Part 6 and Schedule added

At the end of the Regulation—

Add

“Part 6

Notices and Certificates in relation to and Payment of Fixed Penalty

17. Penalty notice

A penalty notice under section 28A(2) of the Ordinance must be in accordance with Form 1 in the Schedule.

18. Demand notice

(1) A demand notice under section 28D(2) of the Ordinance must be in accordance with Form 2 in the Schedule.

(2) A demand notice is valid only if the name of an authorized officer acting on behalf of the Director is signed or printed on the notice.

19. Certificate of posting demand notice

A certificate of posting a demand notice under section 28D(5) of the Ordinance must be in accordance with Form 3 in the Schedule.

20. Evidentiary certificate

An evidentiary certificate under section 28G(5)(c) of the Ordinance must be in accordance with Form 4 in the Schedule.

21. Payment of fixed penalty

(1) The payment of the fixed penalty for a penalty notice or demand notice must be made—

(a) by post addressed to the Treasury;

(b) at a counter of a post office other than a mobile post office;

(c) through an automated teller machine of a bank;

(d) by phone by using the service commonly known as PPS;

(e) through the Internet; or

(f) through the phone-banking service provided by a bank.

(2) A person who wishes to pay the fixed penalty in accordance with subsection (1)(a) or (b) must deliver the penalty notice or demand notice together with the payment in accordance with the payment instructions as set out in the notice.

(3) If a payment is made in accordance with this section, it must be of—

(a) the amount of the fixed penalty specified in the penalty notice or demand notice; or

(b) if the payment is made for more than one notice, the total amount of fixed penalties specified in the notices.

(4) A payment made in accordance with subsection (1) must not include, or form part of, an amount for a matter other than a matter specified in the penalty notice or notices, or the demand notice or notices.

(5) If a payment of the fixed penalty is made otherwise than in accordance with this Regulation, the fixed penalty is treated as unpaid and the Director of Accounting Services may return the amount of the payment to the payer.

“Schedule

[ss. 17, 18, 19
& 20]

Forms

[Forms to be inserted in due course]”.

檔號：
Reference Number:

表格 1
FORM 1

《產品環保責任條例》(第 603 章)
PRODUCT ECO-RESPONSIBILITY ORDINANCE (Chapter 603)

關於指稱觸犯定額罰款罪行詳情的通知書(第 28A(2)條)
NOTICE OF PARTICULARS OF ALLEGED FIXED PENALTY OFFENCE (Section 28A(2))

英文全名(先寫姓氏) / 業務或法團英文名稱*(如適用)
Full Name in English (Surname first) / Name of Business or Corporate in English* (If applicable)

中文全名 / 業務或法團中文名稱*(如適用)
Full Name in Chinese / Name of Business or Corporate in Chinese* (If applicable)

中文電碼(如適用)
Chinese Commercial Code (If applicable)

香港身分證 / 護照號碼 / 商業登記號碼*
Hong Kong Identity Card Number / Passport Number / Business Registration Number*

地址 / 註冊或主要辦事處地址*
Address / Registered or Principal Office Address*

性別(如適用): 男 / 女*
Sex (If applicable): Male / Female*

聯絡電話(如有的話)
Contact Telephone Number (If any)

現被指稱觸犯罪行 IS ALLEGED TO HAVE COMMITTED OFFENCE

定額罰款
FIXED
PENALTY

港幣二千元
HK\$2,000

罪行事項
LIST OF OFFENCES

罪行詳情 OFFENCE DETAILS

日期
Date

日 Day	月 Month	年 Year

時間: 上午 / 下午*
Time: a.m. / p.m.*

時 Hour	分 Minute

在適當方格內加「✓」並刪去不適用者。
Tick the appropriate box and delete where appropriate.

未有按《產品環保責任條例》(第 603 章)第 18A(2)(a)條的規定，在出售貨品時，就直接或間接向顧客提供的每個塑膠購物袋 / 經預先包裝的每份為數 10 個或以上的塑膠購物袋*，向顧客收取不少於 5 角的款額	<input type="checkbox"/>
Failed to charge the customer an amount not less than 50 cents for each plastic shopping bag / each pre-packaged pack of 10 or more plastic shopping bags* provided directly or indirectly to the customer at the time of the sale under section 18A(2)(a) of the Product Eco-responsibility Ordinance (Chapter 603)	
向顧客提供回贈 / 折扣*，以直接抵銷按《產品環保責任條例》(第 603 章)第 18A(2)(a)條規定須就出售貨品時直接或間接向顧客提供的每個塑膠購物袋 / 經預先包裝的每份為數 10 個或以上的塑膠購物袋*向顧客收取的款額 / 其任何部分*所收取的款額 / 其任何部分*	<input type="checkbox"/>
Offered rebate / discount* to the customer with the effect of directly offsetting the amount / any part of the amount* charged for each plastic shopping bag / each pre-packaged pack of 10 or more plastic shopping bags* provided directly or indirectly to the customer at the time of the sale under section 18A(2)(a) of the Product Eco-responsibility Ordinance (Chapter 603)	

地點 Location:

發出通知書人員簽署
Signature of Issuing Officer

發出通知書人員全名
Full Name of Issuing Officer

發出日期
Date of Issue

日 Day	月 Month	年 Year

發出時間
上午 / 下午*
Time of Issue
a.m. / p.m.*

時 Hour	分 Minute

編號
Number

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職位及地區 Post and District

* 請刪去不適用者。 * Please delete where appropriate.

請細心閱讀背頁所載的繳款指示及附註。 Please read carefully the payment instructions and notes set out overleaf.

機印所示款項收訖。 Received the sum printed.

郵遞繳款回條 Slip for Payment by Post

CRC 139	表格 FORM	編號 SERIAL NUMBER												金額 AMOUNT
	1													
														日 Day 月 Month 年 Year
														發出日期 Date of Issue

<<預印條紋碼 Preprinted Bar Code>>

附註 (請細心閱讀)

- 如你於本通知書的發出日期後的 21 天內繳付定額罰款，即可解除就本通知書所指明之罪行而須負的法律責任。你須按照繳款指示繳付款項。
- 繳款通知書將會在適當時候發出，如你已依照本通知書繳付定額罰款，則無須理會該通知書。
- 如你沒有按照繳款通知書繳付罰款或通知環境保護署署長你意欲就該罪行的法律責任提出抗辯，則可能被判處附加罰款。
- 如你提供明知是虛假或具誤導性的關於你的出生日期、你或你所屬的業務或法團的姓名、名稱、地址或聯絡電話號碼的任何詳情，以充作違從根據《產品環保責任條例》(第 603 章)第 28C(2)條提出的要求，即屬犯罪，可予檢控。

繳款指示

- 你須按下述任何一種方法繳付定額罰款 —
 - 透過銀行自動櫃員機繳款**
 你可在任何貼有「繳費服務」標誌的自動櫃員機繳付款項。請選擇「政府機構」，然後選擇「塑膠購物袋(定額罰款)」，並輸入本通知書下半部所示的 16 位數字編號。

 你亦可在大部分貼有「繳費易」標誌的自動櫃員機繳付款項。請選擇「輸入商戶編號」及輸入「6746」，然後輸入本通知書下半部所示的 16 位數字編號。
 - 用電話使用「繳費靈」繳款**
 繳款前，請先致電 18013 登記本通知書。請輸入「商戶編號」「6246」。如欲繳款，請致電 18033，並按照指示輸入所需資料。如需查詢，請致電「繳費靈」熱線：2311 9876。
 - 透過互聯網繳款**
 你可透過銀行及「繳費靈」(<http://www.ppshk.com>)在互聯網上提供的繳費服務繳付款項(詳情請瀏覽庫務署網站<http://www.try.gov.hk>)。繳款時，請選擇「塑膠購物袋(定額罰款)」。
 - 透過電話理財服務繳款**
 你可使用銀行提供的電話理財服務，透過有關的繳費服務繳付款項。
 - 以郵遞方式繳款**
 你可把支票、銀行匯票或本票連同本通知書下半部的「郵遞繳款回條」寄往香港告士打道郵政局信箱 28000 號庫務署收。請將本通知書下半部所示的 16 位數字編號寫在支票、銀行匯票或本票背面。請勿郵寄現金。請注意：以郵遞方式繳款將不會獲發收據。有關的郵遞日期會被視作繳款的日期。
 - 透過郵政局櫃位繳款**
 你可在任何郵政局(流動郵政局除外)的櫃位繳付款項。請保持本通知書**完整**並於繳款時出示。繳款後本通知書會發回收據。如欲查詢各郵政局地址及辦公時間，請致電香港郵政熱線：2921 2222 或瀏覽香港郵政網站 <http://www.hongkongpost.com>。
- 如你透過自動櫃員機、使用「繳費靈」、透過互聯網或電話理財服務繳款，請輸入本通知書下半部所示的 16 位數字編號。於到期日午夜前繳款會被視作準時繳交。
- 任何支票、銀行匯票或本票均須以「香港特別行政區政府」或「香港特區政府」為收款人，並加以劃線。以支票付款，只在支票首次提交付款銀行獲得兌現的情況下，繳款方為有效。期票不予接受。

NOTES (Please read carefully)

- You may discharge liability for the offence specified in this notice by paying the Fixed Penalty within 21 days after the date of the issue of this notice. You must make the payment in accordance with the Payment Instructions.
- A Demand Notice will be issued in due course. You may ignore the Demand Notice only if you have made prior payment on this notice.
- If you fail to pay in accordance with the Demand Notice or to notify the Director of Environmental Protection that you wish to dispute liability for the offence, an additional penalty may be imposed.
- If you, in purported compliance with a requirement made under section 28C(2) of the Product Eco-responsibility Ordinance (Chapter 603), supply any particular of your date of birth, or the name, address or contact telephone number of you or your business or corporate, which you know to be false or misleading, you will commit an offence and will be liable to prosecution.

PAYMENT INSTRUCTIONS

- You must pay the Fixed Penalty by one of the following methods—
 - Payment through Bank Automated Teller Machine (ATM)**
 You can pay at any ATM affixed with "Bill Payment" signage. Please select "Government" and then "Plastic Shopping Bags (Fixed Penalty)", and key in the 16-digit serial number shown at the lower portion of this notice.

 You can also pay at most ATMs affixed with a "JET Payment" signage. Please select "Merchant Code Entry" and key in "6746", then key in the 16-digit serial number shown at the lower portion of this notice.
 - Payment by Phone using "PPS"**
 Before making payment, please dial 18011 to register this notice. Please key in the "Merchant Code" of "6246". For making payment, please dial 18031 and follow the instructions to enter the information required. For enquiries, please call "PPS" Hotline: 2311 9876.
 - Payment through Internet**
 You can pay through the bill payment service provided by banks and "PPS" (<http://www.ppshk.com>) on the Internet (for details, please visit the Treasury's website <http://www.try.gov.hk>). Please select "Plastic Shopping Bags (Fixed Penalty)" for payment.
 - Payment through Phone-banking Service**
 You can pay through the bill payment service by using the phone-banking service provided by banks.
 - Payment by Post**
 You can pay by sending a cheque, bank draft or cashier order, together with the "Slip for Payment by Post" at the lower portion of this notice, to the Treasury, P.O. Box Number 28000, Gloucester Road Post Office, Hong Kong. Please write the 16-digit serial number shown at the lower portion of this notice on the back of the cheque, bank draft or cashier order. You must not send cash through the post. Please note that no receipt will be issued for payment by post. The date of the relevant post mark will be regarded as the date of payment.
 - Payment at Post Office Counters**
 You can pay at a counter of any post office (other than a mobile post office). Please keep this notice **intact** and produce it at the time of payment. It will be receipted and returned to you upon payment. For addresses and opening hours of post offices, please call the Hongkong Post's Hotline: 2921 2222 or visit Hongkong Post's website <http://www.hongkongpost.com>.
- If you make a payment through ATM, by "PPS", through Internet or phone-banking service, please key in the 16-digit serial number shown at the lower portion of this notice for making payment. Payment made before midnight on the due date will be regarded as on-time payment.
- Any cheque, bank draft or cashier order should be made payable to "The Government of the Hong Kong Special Administrative Region" or "The Government of the HKSAR" and crossed. For payment made by cheque, payment is valid only when the cheque is honoured on the first presentation to the drawee bank. Post-dated cheques will not be accepted.

如就本通知書有任何查詢，請致電環境保護署的查詢熱線電話。

For any enquiry about this notice, please call the enquiry hotline of the Environmental Protection Department.

表格 2
FORM 2

《產品環保責任條例》(第 603 章)
PRODUCT ECO-RESPONSIBILITY ORDINANCE (Chapter 603)

繳付定額罰款通知書(第 28D(2)條)
NOTICE DEMANDING PAYMENT OF FIXED PENALTY (Section 28D(2))

致：.....全名(先寫姓氏) / 業務或法團名稱*
To: Full Name (Surname first) / Name of Business or Corporate*

地址 / 註冊或主要辦事處地址*為.....
of Address / Registered or Principal Office Address*.....

於.....年.....月.....日.....時.....分，在.....(地點)發
生一宗違反《產品環保責任條例》(第 603 章)第 18A(2)(a) / 18A(3)*條的罪行，你須為此事件負法律責任。
On (day) (month) (year) at (hour) (minute) at
..... (location) an offence of section 18A(2)(a) / 18A(3)* of the Product Eco-responsibility Ordinance
(Chapter 603) was committed for which you are liable.

本人現要求你在本通知書送達日期後的 10 天內繳付定額罰款\$2,000。如你欲就該罪行的法律責任提出抗辯，
你必須於 10 天內使用附上的通知表格以書面通知本人。

I now demand payment of the Fixed Penalty of \$2,000 within 10 days from the service of this notice. If you wish to
dispute liability for the offence, you must notify me in writing within 10 days using the attached notification form.

如你在 10 天內沒有按照本通知書繳付定額罰款，亦沒有按照本通知書以書面通知本人你欲就該罪行的法律
責任提出抗辯，本人將向裁判官申請作出命令，命令你繳付定額罰款、與該項定額罰款相等的附加罰款及訟
費\$300，即合共\$4,300。

If you fail to pay the Fixed Penalty, and do not notify me in writing that you wish to dispute liability for the offence,
in accordance with this notice within 10 days, an application will be made to a magistrate for an order that you pay the
Fixed Penalty, an additional penalty equal to the amount of the Fixed Penalty and \$300 by way of costs, totalling
\$4,300.

* 請刪去不適用者。 * Please delete where appropriate.

日期
Date

環境保護署署長 (.....) 代行)
(.....)
For Director of Environmental Protection

請注意 Please note:

1. 如你已繳付上述指明的定額罰款，則無須理會本通知書。
If you have paid the Fixed Penalty specified above, you can ignore this notice.
2. 你應按照背頁所載的繳款指示繳付款項。
You should make the payment according to the payment instructions set out overleaf.

機印所示款項收訖。 Received the sum printed.

郵遞繳款回條 Slip for Payment by Post

CRC 139	表格 FORM	編號 SERIAL NUMBER													金額 AMOUNT
	2														HK\$2,000

<<預印條紋碼 Preprinted Bar Code>>

繳款指示

1. 你須按下述任何一種方法繳付定額罰款 —

(a) 透過銀行自動櫃員機繳款

你可在任何貼有「繳費服務」標誌的自動櫃員機繳付款項。請選擇「政府機構」，然後選擇「塑膠購物袋(定額罰款)」，並輸入本通知書下半部所示的 16 位數字編號。

你亦可在大部分貼有「繳費易」標誌的自動櫃員機繳付款項。請選擇「輸入商戶編號」及輸入「6746」，然後輸入本通知書下半部所示的 16 位數字編號。

(b) 用電話使用「繳費靈」繳款

繳款前，請先致電 18013 登記本通知書。請輸入「商戶編號」「6246」。如欲繳款，請致電 18033，並按照指示輸入所需資料。如需查詢，請致電「繳費靈」熱線：2311 9876。

(c) 透過互聯網繳款

你可透過銀行及「繳費靈」(<http://www.ppshk.com>)在互聯網上提供的繳費服務繳付款項(詳情請瀏覽庫務署網站<http://www.try.gov.hk>)。繳款時，請選擇「塑膠購物袋(定額罰款)」。

(d) 透過電話理財服務繳款

你可使用銀行提供的電話理財服務，透過有關的繳費服務繳付款項。

(e) 以郵遞方式繳款

你可把支票、銀行匯票或本票連同本通知書下半部的「郵遞繳款回條」寄往香港告士打道郵政局信箱 28000 號庫務署收。請將本通知書下半部所示的 16 位數字編號寫在支票、銀行匯票或本票背面。請勿郵寄現金。請注意：以郵遞方式繳款將不會獲發收據。有關的郵戳日期會被視作繳款的日期。

(f) 透過郵政局櫃位繳款

你可在任何郵政局(流動郵政局除外)的櫃位繳付款項。請保持本通知書**完整**並於繳款時出示。繳款後本通知書會發回作收據。如欲查詢各郵政局地址及辦公時間，請致電香港郵政熱線：2921 2222 或瀏覽香港郵政網站<http://www.hongkongpost.com>。

2. 如你透過自動櫃員機、使用「繳費靈」、透過互聯網或電話理財服務繳款，請輸入本通知書下半部所示的 16 位數字編號。於到期日午夜前繳款會被視作準時繳交。

3. 任何支票、銀行匯票或本票均須以「香港特別行政區政府」或「香港特區政府」為收款人，並加以劃線。以支票付款，只在支票首次提交付款銀行獲得兌現的情況下，繳款方為有效。期票不予接受。

欲就罪行的法律責任提出抗辯者請注意

1. 如你意欲就罪行的法律責任提出抗辯，你須簽署附上的通知表格，並於本通知書送達日期後的 10 天內將之交付環境保護署署長，以通知環境保護署署長你有意此意欲。在裁判官裁定有關申訴前請**不要**繳付定額罰款。

2. 如你通知環境保護署署長意欲就罪行的法律責任提出抗辯，裁判官將按照《產品環保責任條例》(第 603 章)裁定有關申訴，傳票將會在適當時候向你送達。

3. 如你在通知環境保護署署長意欲就罪行的法律責任提出抗辯後，在裁判官席前應訊時你並沒有提出免責辯護或你提出瑣屑無聊或無理取鬧的免責辯護，則在定額罰款及有關法律程序中命令的訟費之外，可被判繳付與有關定額罰款相等的附加罰款。

如就本通知書有任何查詢，請致電環境保護署的查詢熱線電話。

For any enquiry about this notice, please call the enquiry hotline of the Environmental Protection Department.

PAYMENT INSTRUCTIONS

1. You must pay the Fixed Penalty by one of the following methods—

(a) Payment through Bank Automated Teller Machine (ATM)

You can pay at any ATM affixed with “Bill Payment” signage. Please select “Government” and then “Plastic Shopping Bags (Fixed Penalty)”, and key in the 16-digit serial number shown at the lower portion of this notice.

You can also pay at most ATMs affixed with a “JET Payment” signage. Please select “Merchant Code Entry” and key in “6746”, then key in the 16-digit serial number shown at the lower portion of this notice.

(b) Payment by Phone using “PPS”

Before making payment, please dial 18011 to register this notice. Please key in the “Merchant Code” of “6246”. For making payment, please dial 18031 and follow the instructions to enter the information required. For enquiries, please call “PPS” Hotline: 2311 9876.

(c) Payment through Internet

You can pay through the bill payment service provided by banks and “PPS” (<http://www.ppshk.com>) on the Internet (for details, please visit the Treasury’s website <http://www.try.gov.hk>). Please select “Plastic Shopping Bags (Fixed Penalty)” for payment.

(d) Payment through Phone-banking Service

You can pay through the bill payment service by using the phone-banking service provided by banks.

(e) Payment by Post

You can pay by sending a cheque, bank draft or cashier order, together with the “Slip for Payment by Post” at the lower portion of this notice, to the Treasury, P.O. Box Number 28000, Gloucester Road Post Office, Hong Kong. Please write the 16-digit serial number shown at the lower portion of this notice on the back of the cheque, bank draft or cashier order. You must not send cash through the post. Please note that no receipt will be issued for payment by post. The date of the relevant post mark will be regarded as the date of payment.

(f) Payment at Post Office Counters

You can pay at a counter of any post office (other than a mobile post office). Please keep this notice **intact** and produce it at the time of payment. It will be receipted and returned to you upon payment. For addresses and opening hours of post offices, please call the Hongkong Post’s Hotline: 2921 2222 or visit Hongkong Post’s website <http://www.hongkongpost.com>.

2. If you make a payment through ATM, by “PPS”, through Internet or phone-banking service, please key in the 16-digit serial number shown at the lower portion of this notice for making payment. Payment made before midnight on the due date will be regarded as on-time payment.

3. Any cheque, bank draft or cashier order should be made payable to “The Government of the Hong Kong Special Administrative Region” or “The Government of the HKSAR” and crossed. For payment made by cheque, payment is valid only when the cheque is honoured on the first presentation to the drawee bank. Post-dated cheques will not be accepted.

NOTES FOR THOSE WHO WISH TO DISPUTE LIABILITY FOR OFFENCE

1. If you wish to dispute liability for the offence, you should notify the Director of Environmental Protection by signing the attached notification form and delivering it to the Director of Environmental Protection within 10 days after the date of service of this notice for notification of dispute. Please **do not** pay the Fixed Penalty before the complaint is determined by a magistrate.

2. If you notify the Director of Environmental Protection that you wish to dispute liability for the offence, a magistrate will determine the complaint in accordance with the Product Eco-responsibility Ordinance (Chapter 603) and you will be served with a summons in due course.

3. If, having notified the Director of Environmental Protection that you wish to dispute liability for the offence, you appear before a magistrate and offer no defence or a defence that is frivolous or vexatious, you are liable to, in addition to the Fixed Penalty and any costs ordered in the proceedings, an additional penalty equal to the amount of the Fixed Penalty.

通知書編號：
Notice Serial Number:

《產品環保責任條例》(第 603 章)
PRODUCT ECO-RESPONSIBILITY ORDINANCE (Chapter 603)

致環境保護署署長意欲就罪行的法律責任提出抗辯的通知表格(第 28D(2)條)
NOTIFICATION FORM TO DIRECTOR OF ENVIRONMENTAL PROTECTION
OF WISH TO DISPUTE LIABILITY FOR OFFENCE (Section 28D(2))

致：
環境保護署署長
香港灣仔軒尼詩道 130 號
修頓中心 25 樓
環境保護署
環保法規管理科

To:
The Director of Environmental Protection
Environmental Compliance Division
Environmental Protection Department
25th Floor, Southorn Centre,
130 Hennessy Road,
Wan Chai, Hong Kong

就貴署根據《產品環保責任條例》(第 603 章)第 28D(2)條所送達的通知書(詳情本人經已閱悉)，本人意欲就該通知書所指明的罪行的法律責任提出抗辯，特此通知。

Please take notice that I wish to dispute liability for the offence specified in your notice (particulars of which I have taken notice) served under section 28D(2) of the Product Eco-responsibility Ordinance (Chapter 603).

在適當方格內加「✓」。Tick the appropriate box.

<input type="checkbox"/>	中文全名..... Full name in English (in block letters)
<input type="checkbox"/>	中文全名.....為(業務 / 法團名稱).....的董事 / 秘書 / 授權人*(請將不適用的部分刪去) Full name in English (in block letters) being the director / secretary / authorized person* (delete whichever is inapplicable) of (name of business / corporate in English) 公司印章 Company chop

日期
Date

簽名
Signature

* 授權人請附上有關授權書。

* For authorized person, please submit a letter of authorization.

表格 3
FORM 3

《產品環保責任條例》(第 603 章)
PRODUCT ECO-RESPONSIBILITY ORDINANCE (Chapter 603)

繳款通知書郵遞證明書(第 28D(5)條)
CERTIFICATE OF POSTING OF DEMAND NOTICE (Section 28D(5))

現證明已於.....年.....月.....日郵寄一份《產品環保責任條例》(第 603 章)第 28D(2)條所指的繳款通知書。該繳款通知書的詳情如下 —

This is to certify that on (day) (month) (year) a Demand Notice under section 28D(2) of the Product Eco-responsibility Ordinance (Chapter 603) was posted. The particulars of the Demand Notice are as follows—

編號 繳款通知書的日期

Serial Number Date of Demand Notice

收件人姓名
Name of Addressee

地址
Address

日期
Date

環境保護署署長 () (代行)
()
For Director of Environmental Protection

表格 4
FORM 4

《產品環保責任條例》(第 603 章)
PRODUCT ECO-RESPONSIBILITY ORDINANCE (Chapter 603)

證據證明書(第 28G(5)(c)條)
EVIDENTIARY CERTIFICATE (Section 28G(5)(c))

現證明 —
This is to certify that—

- (a) 於.....年.....月.....日.....，發生了一宗違反《產品環保責任條例》(第 603 章)第 18A(2)(a) / 18A(3)*條，即未有在出售貨品時，就直接或間接向顧客提供的每個塑膠購物袋 / 經預先包裝的每份為數 10 個或以上的塑膠購物袋*，向顧客收取不少於 5 角的款額 / 向顧客提供回贈 / 折扣*，以直接抵銷有關規定須就出售貨品時就向顧客提供的每個塑膠購物袋 / 經預先包裝的每份為數 10 個或以上的塑膠購物袋*向顧客收取的款額 / 或其任何部分*的罪行，.....被指稱須對該罪行負法律責任；
on (day) (month) (year), at, an offence of failing to charge the customer an amount not less than 50 cents for each plastic shopping bag / each pre-packaged pack of 10 or more shopping bags* provided directly or indirectly to the customer at the time of sale / offered rebate / discount* to the customer with the effect of directly offsetting the amount / any part of that amount* charged for each plastic shopping bag / each pre-packaged pack of 10 or more shopping bags* provided directly or indirectly to the customer at the time of sale contrary to section 18A(2)(a) / 18A(3)* of the Product Eco-responsibility Ordinance (Chapter 603) has been committed for which is alleged to be liable;
- (b) 於.....年.....月.....日，.....的地址 / 註冊或主要辦事處地址*為.....；
on (day) (month) (year), the address / registered or principal office address* of was;
- (c) 於.....年.....月.....日前，(a)段所指明的人士 / 業務 / 法團*沒有就根據《產品環保責任條例》(第 603 章)第 28D(2)條送達，日期為.....年.....月.....日的繳款通知書(編號.....)內所指明的罪行繳付定額罰款，亦沒有通知環境保護署署長意欲就該罪行的法律責任提出抗辯。
before (day) (month) (year), the person / business / corporate* specified in paragraph (a) had not paid the Fixed Penalty in respect of the offence specified in Demand Notice Serial Number dated (day) (month) (year) served under section 28D(2) of the Product Eco-responsibility Ordinance (Chapter 603) and had not notified the Director of Environmental Protection that he / she / the business / corporate* wished to dispute liability for the offence.

* 請刪去不適用者。 * Please delete where appropriate.

日期
Date

.....
環境保護署署長 (..... 代行)
(.....)
For Director of Environmental Protection

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Product Eco-responsibility (Amendment) Ordinance 2013.
 - (2) This Ordinance comes into operation on [date]~~a day to be appointed by the Secretary for the Environment by notice published in the Gazette.~~
-

Part 2

Amendments to Product Eco-responsibility Ordinance

2. Product Eco-responsibility Ordinance amended

The Product Eco-responsibility Ordinance (Cap. 603) is amended as set out in sections 3 to ~~20~~21.

16A. Part 3, Division 6 added

Part 3, after Division 5—

Add

“Division 6—Savings and Transitionals

**30. Savings and transitional provisions relating to Product
Eco-responsibility (Amendment) Ordinance 2013**

Schedule 5 provides for the savings and transitional
arrangements relating to the Product Eco-responsibility
(Amendment) Ordinance 2013 (of 2013).”.

21. Schedule 5 added

At the end of the Ordinance—

Add

“Schedule 5

[s. 30]

Savings and Transitional Provisions Relating to
Product Eco-responsibility (Amendment)
Ordinance 2013

1. Interpretation

(1) In this Schedule—

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before [\[date\]](#);

PSB Regulation (《膠袋規例》) means the Product Eco-responsibility (Plastic Shopping Bags) Regulation (Cap. 603 sub. leg. A) as in force immediately before [\[date\]](#);

specified form (指明表格) means a form specified by the Director under section 9 of this Schedule.

(2) In this Schedule, a reference to a provision having a continuing effect under Cap. 1 is a reference to the provision having a continuing effect by the operation of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).

(3) A word or an expression used in this Schedule, and defined or otherwise explained in section 17 of the pre-amended Ordinance or section 2 of the PSB Regulation, has the same meaning as in that section.

(4) The saving mentioned in this Schedule for the effect of a provision of the pre-amended Ordinance extends to any other provision of that Ordinance or the PSB Regulation—

(a) that defines a word or an expression used in the provision;

(b) in accordance with which the provision is to be construed; or

(c) by reference to which the provision is to operate.

2. Returns and payment of levies due after [date]

(1) A person who was a registered retailer at any time within the period beginning on [date] and ending on [date] must ensure that—

(a) a separate return in respect of each registered retail outlet of the person for that period is submitted to the Director;

(b) the return is submitted to the Director in writing and in the specified form on or before [date]; and

(c) the return states the information specified in subsection (2).

(2) The information is—

(a) the total number of plastic shopping bags delivered to the registered retail outlet during that period, except for any bags to be provided from an exempted area of the retail outlet that is subject to the criteria for a Type 2 exemption;

(b) the total number of plastic shopping bags provided directly or indirectly to customers during that period from—

(i) the retail outlet; or

-
- (ii) if there is an exempted area in the retail outlet, any area of the retail outlet that is not exempted;
 - (c) the total amount of levies payable for the bags referred to in paragraph (b); and
 - (d) if an application for registration or deregistration in respect of the retail outlet is approved during that period, the date on which the retail outlet becomes registered or deregistered.
 - (3) On or before [date], the person must also pay to the Government the total amount of levies stated in the return in person, by post or by any other means according to the payment instructions contained in the specified form of the return.
 - (4) A person who contravenes subsection (1) or (3) commits an offence and is liable on conviction to a fine at level 5.
 - (5) It is a defence to a charge under subsection (4) for the person charged to prove that the person exercised due diligence to avoid the commission of the offence.

3. Surcharges for offences in respect of payment of levies

- (1) This section applies if, on or after [date], a person is convicted of an offence under either of the following provisions in respect of an amount of levies stated in a return that the person has failed to pay—
 - (a) section 24(3) of the pre-amended Ordinance having a continuing effect under Cap. 1;
 - (b) section 2(4) of this Schedule.
- (2) The person is also liable to pay—
 - (a) a surcharge of 5% of the amount of levies that are outstanding on the expiry of the due date; and

(b) an additional surcharge of 10% of the total amount of levies and the surcharge referred to in paragraph (a) that are outstanding at the expiry of 6 months after the due date.

(3) In this section—

due date (到期日), in relation to levies stated in a return, means the 30th day after the end of the period to which the return relates.

4. Record keeping

(1) A person who has submitted a return under section 2(1) of this Schedule must ensure that the records and documents specified in subsection (2) relating to the return are kept until [date].

(2) The records and documents are records, invoices, receipts, delivery notes or any other documents that contain sufficient details to enable the Director to readily verify the following matters in respect of each registered retail outlet of the person—

(a) the number of plastic shopping bags provided to a customer in each retail transaction of the retail outlet, except for any bags provided from an exempted area of the retail outlet;

(b) the amount charged for those bags by the person under section 23(1) of the pre-amended Ordinance;

(c) the number of plastic shopping bags contained in each shipment of plastic shopping bags to the retail outlet, except for any bags to be provided from an exempted area of the retail outlet that is subject to the criteria for a Type 2 exemption; and

(d) the number of plastic shopping bags procured by the person and relating to each shipment referred to in paragraph (c).

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

(4) It is a defence to a charge under subsection (3) for the person charged to prove that the person exercised due diligence to avoid the commission of the offence.

5. Assessment notice for conviction or acquittal before [date]

(1) This section applies if, before [date]—

(a) the Director may make an assessment for the plastic shopping bags provided by a person, and serve an assessment notice on the person, under section 26(2) of the pre-amended Ordinance but has not done so; or

(b) the Director has served an assessment notice on a person under that section.

(2) Section 26(2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) of the pre-amended Ordinance continues to apply in relation to an assessment under subsection (1)(a) as if a reference to a registered retailer in that section were a reference to the person.

(3) Section 26(3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) of the pre-amended Ordinance continues to apply in relation to a notice under subsection (1)(b) as if a reference to a registered retailer in that section were a reference to the person.

(4) It is a defence to a charge under section 26(7) of the pre-amended Ordinance having a continuing effect under subsection (2) or (3) for the person charged to prove that

the person exercised due diligence to avoid the commission of the offence.

6. Assessment notice for conviction or acquittal on or after [date]

_____ (1) This section applies if, on or after [date], a person—

_____ (a) is convicted of an offence under section 9 of this Ordinance relating to any record, document or information on an amount of levies stated in a return submitted by the person in respect of a period under either of the following provisions—

_____ (i) section 24(1) of the pre-amended Ordinance;

_____ (ii) section 2(1) of this Schedule;

_____ (b) is acquitted of an offence mentioned in paragraph (a) in reliance on the defence under section 9 of this Ordinance;

_____ (c) is convicted of an offence under section 24(3) of the pre-amended Ordinance having a continuing effect under Cap. 1 for failing to submit a return in respect of a period according to the requirements in section 24(1) of the pre-amended Ordinance;

_____ (d) is acquitted of an offence mentioned in paragraph (c) in reliance on the defence under section 27 of the pre-amended Ordinance having a continuing effect under Cap. 1;

_____ (e) is convicted of an offence under section 2(4) of this Schedule for failing to submit a return according to the requirements in section 2(1) of this Schedule;
or

(f) is acquitted of an offence mentioned in paragraph (e) in reliance on the defence under section 2(5) of this Schedule.

(2) The Director may—

(a) assess the amount of levies payable for the plastic shopping bags provided by the person during that period; and

(b) serve an assessment notice on the person demanding payment of—

(i) that assessed amount; or

(ii) if the person has already paid part of that amount under section 24 of the pre-amended Ordinance, or under section 2 of this Schedule, the balance of that amount.

(3) The Director may replace an assessment notice with another assessment notice served for that purpose.

(4) An assessment notice served under this section in respect of plastic shopping bags provided during a period may only be served within 5 years after the end of that period.

(5) An assessment notice served under this section must also state—

(a) the reasons for serving the notice;

(b) how the amount of levies assessed by the Director is calculated;

(c) when and how payment is to be made; and

(d) the right of the person to appeal against the notice.

(6) The person must pay the amount of the demanded levies under an assessment notice within a period of 30 days after the date on which the notice is served.

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- (7) A person who contravenes subsection (6) commits an offence and is liable on conviction to a fine at level 5.
- (8) A person who is convicted of an offence under subsection (7) is also liable to pay—
- (a) a surcharge of 5% of the amount of levies that are outstanding on the expiry of the period referred to in subsection (6); and
- (b) an additional surcharge of 10% of the total amount of levies and the surcharge referred to in paragraph (a) that are outstanding at the expiry of 6 months after the period referred to in subsection (6).
- (9) If an appeal is made under section 7 of this Schedule against an assessment notice served under this section, any amount of levies or surcharges that is outstanding remains payable under this section pending the determination of the appeal unless the Director decides otherwise.
- (10) The Director may at any time withdraw an assessment notice served under this section by serving a withdrawal notice to that effect.
- (11) A notice served under this section is regarded as duly served when it is sent by post to the last address provided by the person to the Director.
- (12) It is a defence to a charge under subsection (7) for the person charged to prove that the person exercised due diligence to avoid the commission of the offence.

7. Appeal

- (1) A person who is aggrieved by a decision of a public officer relating to an assessment notice served under either of the following provisions may, within 21 days after the date on which the notice is served on the

person, appeal to the Appeal Board by giving a notice of appeal to the Director stating the reasons for the appeal—

(a) section 26 of the pre-amended Ordinance having a continuing effect under section 5 of this Schedule;

(b) section 6 of this Schedule.

(2) For the purposes of Division 5 of Part 2 of this Ordinance, an appeal made under subsection (1) is to be regarded as an appeal made under section 13 of this Ordinance.

(3) In this section—

Appeal Board (上訴委員會) has the meaning given by section 12 of this Ordinance.

8. Levies and surcharges are recoverable as civil debt

An outstanding amount of levies or surcharges payable under section 2, 3 or 6 of this Schedule is recoverable as a civil debt due to the Government.

9. Specified form

(1) The Director may specify the forms to be used under this Schedule.

(2) A specified form may require that—

(a) it be completed in a specified way;

(b) specified information or documents be included in or attached to it; and

(c) it be submitted in a specified manner.

(3) If any such requirement is not complied with in relation to a specified form for submitting a return under section

2(1) of this Schedule, the return is to be treated as not submitted in the specified form.

(4) The Director is to make copies of a specified form available—

(a) during office hours at the office of the Director; and

(b) through any other means that the Director considers appropriate.

10. Provisions of this Schedule not to derogate from section 23 of Interpretation and General Clauses Ordinance

The provisions of this Schedule are in addition to, and not in derogation of, section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).”.
