

立法會
Legislative Council

LC Paper No. CB(1)805/14-15
(These minutes have been seen
by the Administration)

Ref : CB1/BC/4/14/1

**Bills Committee on Promotion of Recycling and Proper Disposal
(Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015**

**Minutes of first meeting
held on Thursday, 9 April 2015, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

Members present : Ir Dr Hon LO Wai-kwok, BBS, MH, JP (Chairman)
Hon Vincent FANG Kang, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon CHAN Hak-kan, JP
Hon WU Chi-wai, MH
Hon Charles Peter MOK, JP
Dr Hon Kenneth CHAN Ka-lok

Member absent : Hon KWOK Wai-keung

**Public Officers
attending** : **For item II**

Mr Howard CHAN, JP
Deputy Director of Environmental Protection (2)
Environmental Protection Department

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

Mr Lawrence CHEUNG
Senior Environmental Protection Officer
(Waste Management Policy)³
Environmental Protection Department

Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting & Administration)
Department of Justice

Miss Cindy CHEUK
Government Counsel
Department of Justice

Clerk in Attendance : Ms Shirley CHAN
Chief Council Secretary (1)1

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Miss Lilian MOK
Senior Council Secretary (1)1

Ms Mandy LI
Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

Action

I. Election of Chairman

Election of Chairman

1. Mr Jeffrey LAM, the Member who had the highest precedence among members of the Bills Committee present at the meeting, presided at the election of Chairman of the Bills Committee.

2. Mr Jeffrey LAM invited nominations for the chairmanship of the Bills Committee. Mr Andrew LEUNG nominated Ir Dr LO Wai-kwok, and the nomination was seconded by Mr Vincent FANG. Ir Dr LO accepted the nomination.

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3. There being no other nominations, Ir Dr LO Wai-kwok was declared Chairman of the Bills Committee. Ir Dr LO then took the chair.

4. The Chairman sought members' view on the need for a deputy chairman. It was agreed that no deputy chairman was required.

II. Meeting with the Administration

(LC Paper No. CB(3)513/14-15	—	The Bill
File Ref: EP CR 9/150/28 Pt.4	—	Legislative Council Brief
LC Paper No. LS52/14-15	—	Legal Service Division Report
LC Paper No. CB(1)712/14-15(01)	—	Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to Members)
LC Paper No. CB(1)712/14-15(02)	—	Assistant Legal Adviser's letter dated 17 March 2015 to the Administration
LC Paper No. CB(1)712/14-15(03)	—	Administration's reply to Assistant Legal Adviser's letter dated 17 March 2015
LC Paper No. CB(1)712/14-15(04)	—	Background brief prepared by the Legislative Council Secretariat)

5. The Deputy Director of Environmental Protection (2) briefed members on the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 ("the Bill").

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

Admin 7. The Administration was requested to –

- (a) in respect of any piece of regulated electrical equipment ("REE") which was defined in the Bill, clarify whether the proposed recycling fees would be payable in respect of the REE concerned in the

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following situations and provide the relevant legal justifications –

- (i) if an individual purchased a piece of REE in Hong Kong but used or distributed the item outside Hong Kong and the item was discarded in or outside Hong Kong;
 - (ii) if an individual purchased a piece of REE from overseas but used or distributed the item in Hong Kong and the item was discarded in or outside Hong Kong;
 - (iii) if an individual purchased a piece of REE from overseas through online shopping and used or distributed the item in Hong Kong and the item was discarded in or outside Hong Kong;
 - (iv) if an individual purchases a piece of REE which was a parallel import from a local seller and the individual used or distributed the item in Hong Kong and the item was discarded in or outside Hong Kong;
 - (v) if an individual purchased (either locally or from overseas) certain electrical/electronic components to assemble a piece of REE for his/her own use in Hong Kong (or the individual distributed the assembled REE in Hong Kong), and the piece of REE was discarded in or outside Hong Kong.
- (b) provide details of the proposed recycling fees of the five types of REE and advise whether a fee adjustment mechanism would be established and, if yes, the considerations that would be taken into account in adjusting the fee levels;
- (c) explain with a flow chart the overall collection and treatment of regulated e-waste and the collection of the proposed recycling fees, in particular how the fees would be shouldered by the stakeholders (e.g. manufacturers, importers, distributors, retailers and consumers) along the supply chain;
- (d) in respect of the licensing requirements as proposed in the Bill, advise the number of private recyclers undertaking recycling of regulated e-waste who would be exempted from obtaining a waste disposal licence under section 16 of the Waste Disposal Ordinance (Cap. 354); and
- (e) advise the number of fire outbreaks in recycling plants in Hong Kong in the past few years.

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Invitation of views

8 Members agreed to invite deputations to give views on the Bill at the meeting on Monday, 4 May 2015. Members also agreed to post a notice on the Legislative Council website and write to the 18 District Councils to invite written submissions on the Bill.

III. Any other business

Arrangements of future meetings

9. Members agreed to the following schedule of meetings –

<u>Date</u>	<u>Time</u>
Monday, 4 May 2015	9:00 am
Thursday, 28 May 2015	8:30 am
Monday, 15 June 2015	10:45 am
Tuesday, 7 July 2015	10:45 am

(Post-meeting note: With the concurrence of the Chairman, the third meeting originally scheduled for 28 May 2015 has been re-scheduled for Tuesday, 2 June 2015 at 2:30 pm. A circular about the re-scheduling of the meeting was issued to members vide LC Paper No. CB(1)774/14-15 on 22 April 2015.)

10. There being no other business, the meeting ended at 3:57 pm.

Council Business Division 1
Legislative Council Secretariat
29 April 2015

**Bills Committee on Promotion of Recycling and Proper Disposal
(Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015**

**Proceedings of the first meeting
on Thursday, 9 April 2015, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Election of Chairman</i>			
000117 - 000310	Mr Jeffrey LAM Mr Andrew LEUNG Mr Vincent FANG Ir Dr LO Wai-kwok	Election of Chairman Ir Dr LO Wai-kwok was elected Chairman of the Bills Committee.	
<i>Agenda Item II - Meeting with the Administration</i>			
000311 - 000406	Chairman	Opening remarks	
000407 - 000457	Mr Jeffrey LAM	Mr Jeffrey LAM declared that he was engaged in toy manufacturing business and some of his toy products which contained electronic components might fall under the scope of regulated electrical equipment ("REE") under the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 ("the Bill").	
000458 - 001004	Chairman Administration	Briefing by the Administration on the Bill	
001005 - 002032	Chairman Dr Kenneth CHAN Administration Assistant Legal Adviser 10 ("ALA10")	Dr Kenneth CHAN enquired on the difference between the Chinese rendition of "electrical equipment" (電器設備) as appeared in the definition of "regulated electrical equipment" and the Chinese rendition of "electrical equipment" (電氣設備) as appeared in the short title of the Bill. The Administration explained that – (a) under the mandatory producer responsibility scheme ("PRS") on waste electrical and electronic equipment ("WEEE"), five types of products namely (i) washing machines, (ii) refrigerators, (iii) air conditioners, (iv) television sets and (v) computer products viz. computers (i.e. desktops, laptops and tablets), printers, scanners and monitors were proposed to be regulated. These	

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		<p>products were collectively known as "REE";</p> <p>(b) while REE was a general term referring to the five types of equipment, the first four products were classified as electrical equipment and the latter one was electronic equipment;</p> <p>(c) "electrical equipment" and "electronic equipment" together made up "regulated electrical equipment". To avoid confusion among the meanings of "REE", "electrical equipment" and "electronic equipment" in the Chinese text of the Bill, "REE" was rendered as "受管制電器" while "electrical equipment" and "electronic equipment" were rendered as "電氣設備" and "電子設備" respectively; and</p> <p>(d) it was not uncommon to adopt "電氣設備" as the Chinese equivalent of "electrical equipment". An example would be "電氣化火車".</p> <p>ALA10 advised that the term "electrical products" was also rendered as "電氣產品" in the short title of the Electrical Products (Safety) Regulation (Cap. 406G).</p>	
002033 - 002752	Chairman Mr Vincent FANG Administration	<p>Mr Vincent FANG expressed support to the development of the WEEE Treatment and Recycling Facility ("WEEETRF") to provide proper treatment for the regulated e-waste collected under the mandatory PRS on WEEE but was concerned about the charging of recycling fees.</p> <p>Mr FANG sought clarification on –</p> <p>(a) whether WEEETRF would collect and recycle non-regulated e-waste, such as dehumidifier;</p> <p>(b) whether there would be a ready supply of electronic equipment for treatment at WEEETRF given its high market value in the second-hand market;</p> <p>(c) the use of recycling fees to be collected from suppliers of REE; and</p>	

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		<p>(d) the livelihood of existing WEEE recyclers.</p> <p>The Administration responded that –</p> <p>(a) at present, Caritas and St. James' Settlement were operating voluntary recycling programmes for different types of electrical appliances and computers;</p> <p>(b) the Administration would continue to explore other possible outlets to recycle other non-regulated e-waste, including WEEETRF;</p> <p>(c) some equipment disposed of at WEEETRF which could be refurbished might be donated or resold in the second-hand market;</p> <p>(d) the proposed recycling fees would be imposed to recover the full costs of the mandatory PRS on WEEE. The specific fee levels would be determined at full cost recovery basis taking into account the development and operation costs of WEEETRF; and</p> <p>(e) the Administration proposed to apply the licensing control under section 16 of the Waste Disposal Ordinance (Cap. 354) ("the WDO") to the disposal of regulated e-waste. According to the proposed licensing requirement, WEEETRF and other private recyclers undertaking storage, treatment, reprocessing and recycling of regulated e-waste would have to obtain a waste disposal licence. However, mere collection of regulated e-waste would not be required to obtain a licence. To avoid undue impact on the operation of private WEEE recyclers, exemption would be granted for disposal of regulated e-waste on land or in premises with an area of not more than 100 square meters.</p>	
002753 - 003830	Chairman Mr Jeffrey LAM Administration	Mr Jeffrey LAM enquired about the exact amount of the proposed recycling fees for the five types of REE and the charging mechanism.	

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		<p>The Administration responded that –</p> <p>(a) as mentioned in the Consultation Document, the indicative range of recycling fees were around \$100 for a small piece of REE and around \$200 to \$250 for a bulky one. The recycling fees for computer products were expected to be lower; and</p> <p>(b) the Administration estimated that the recycling fee levels would not be higher than the indicative range mentioned in the Consultation Document. The fees would be provided for in subsidiary legislation for the Legislative Council's ("LegCo") approval.</p> <p>In respect of any piece of REE which was defined in the Bill, Mr LAM requested the Administration to clarify whether the proposed recycling fees would be payable in respect of the REE concerned in the following situations and provide the relevant legal justifications –</p> <p>(a) if an individual purchased a piece of REE from overseas but used or distributed the item in Hong Kong and the item was discarded in or outside Hong Kong;</p> <p>(b) if an individual purchased a piece of REE from overseas through online shopping and used or distributed the item in Hong Kong and the item was discarded in or outside Hong Kong;</p> <p>(c) if an individual purchased a piece of REE which was a parallel import from a local seller and the individual used or distributed the item in Hong Kong and the item was discarded in or outside Hong Kong; and</p> <p>(d) if an individual purchased (either locally or from overseas) certain electrical/electronic components to assemble a piece of REE for his/her own use in Hong Kong (or the individual distributed the assembled REE in Hong Kong), and the piece of REE was discarded in or outside Hong Kong.</p>	<p>Admin (paragraph 7(a) of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration advised that –</p> <ul style="list-style-type: none">(a) REE imported from outside Hong Kong for sale in the local market would be covered under the mandatory PRS on WEEE and the importers would have to pay the proposed recycling fees to the Government;(b) the proposed recycling fees would not be payable if an individual purchased a piece of REE from overseas for personal use;(c) the proposed recycling fees would not be payable if an individual purchased certain electrical/electronic components to assemble a piece of REE for personal use. However, if the person distributed the assembled REE in Hong Kong, the person would be regarded as supplier of REE and required to pay the proposed recycling fees to the Government;(d) it was not common for consumers to purchase bulky electrical appliances directly from overseas. Instead, the five types of REE were mainly imported from outside Hong Kong through import agents. It was therefore considered appropriate to collect the proposed recycling fees from importers who would distribute the equipment to the local market for sale; and(e) computer products usually had a comparatively high market value in the second-hand market. It was expected that the amount of waste computer products to be disposed of at WEEETRF or other licensed recycling facilities would be small and would not have a significant impact on the treatment capacity of WEEETRF. <p>Mr LAM was concerned that the proposed recycling fees would not be payable if a person purchased a piece of REE from overseas for personal use. The Chairman also pointed out that REE purchased from overseas would ultimately be treated at WEEETRF or other licensed recycling plants when they were disposed of. This would mean that these products would be treated for free as no financial contribution had been made towards their</p>	

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		<p>treatment. Such arrangement might be unfair to other stakeholders along the supply chain who had shared the proposed recycling fees.</p>	
<p>003831 - 004847</p>	<p>Chairman Mr Charles Peter MOK Administration</p>	<p>Mr Charles Peter MOK expressed concern about the definition of "computer" in the Bill and pointed out that the term "computer" had different definitions in different existing Ordinances. The novelties in the functions and designs of mobile phones, notebook computers and tablet computers might also make it difficult for the Administration to define in clear terms whether these products would be subject to the mandatory PRS on WEEE. Mr MOK further enquired whether the WEEETRF operator would collect and recycle computer products if some parts of them had been disassembled or taken apart.</p> <p>The Administration responded that –</p> <p>(a) Schedule 6 to the Product Eco-responsibility Ordinance (Cap. 603) ("the PERO") to be added by the Bill would define the five types of REE; and</p> <p>(b) WEEETRF would collect and recycle regulated e-waste even if some parts of them had been taken apart or damaged.</p> <p>In response to Mr MOK's further enquiry, the Administration advised that the proposed recycling fees would be collected from suppliers of REE. As stipulated in the proposed section 31, a "supplier" was defined to mean–</p> <p>(a) a person who manufactured REE in Hong Kong in the course of the person's business; or</p> <p>(b) a person who caused to be imported into Hong Kong REE for distribution in the course of the person's business, but did not include a person who only provided service for transporting the equipment that did not belong to the person into Hong Kong for another person.</p> <p>According to the above, manufacturers/sellers of electrical and electronic equipment operating outside Hong Kong would not fall under the</p>	

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		<p>definition of "supplier" and would not be required to pay the proposed recycling fees to the Government if an individual purchased a piece of REE from them for personal use.</p> <p>Mr MOK pointed out that online shopping had become increasingly popular in recent years. There might be cases where the Administration could not easily tell whether an online shopping website was operated by a local firm or an overseas company and whether the proposed recycling fees would be payable if an individual purchased a piece of REE from the website.</p>	
004848 - 005955	Chairman Mr Andrew LEUNG Administration	<p>While expressing support for the mandatory PRS on WEEE, Mr Andrew LEUNG opined that the Administration should set out the respective recycling fees of the five types of REE for consideration of the Bills Committee. He requested the Administration to –</p> <p>(a) provide details of the proposed recycling fees of the five types of REE and advise whether a fee adjustment mechanism would be established and, if yes, the considerations that would be taken into account in adjusting the fee levels; and</p> <p>(b) explain with a flow chart the overall collection and treatment of regulated e-waste and the collection of the proposed recycling fees, in particular how the fees would be shouldered by the stakeholders (e.g. manufacturers, importers, distributors, retailers and consumers) along the supply chain.</p> <p>The Administration responded that –</p> <p>(a) the proposed recycling fees would be collected at the supplier level. Registered suppliers would be responsible for paying the recycling fees for the REE which they imported into Hong Kong for local sale. They would also be required to keep relevant records and pay the corresponding recycling fees to the Government; and</p> <p>(b) as mentioned in the Consultation Document, the indicative range of recycling fees were around \$100 for a small piece of REE and</p>	Admin (paragraphs 7(b) and (c) of the minutes refer)

Time marker	Speaker	Subject(s)	Action required
		<p>around \$200 to \$250 for a bulky one. The recycling fees for computer products were expected to be lower. The Administration estimated that the recycling fee levels would not be higher than the indicative range mentioned in the Consultation Document.</p> <p>Mr LEUNG remained unconvinced and said that he would not support the Bill unless the Administration clearly specified the proposed recycling fees of the five types of REE.</p> <p>In response to the Chairman's enquiry about why the recycling fees of the five types of REE were not set out in the Bill in the form of a schedule, the Administration explained that the fee levels would be reviewed regularly and it was considered more flexible to prescribe the fees in subsidiary legislation for approval of LegCo. On the other hand, given that the recycling fees were to be determined at full cost recovery basis taking into account the development and operation costs for WEEETRF, it might not be feasible for the Administration to prescribe the fees in the Bill while the contract for the WEEETRF project had yet been awarded.</p>	
005956 - 010729	Chairman Ms Cyd HO Administration	<p>Ms Cyd HO expressed concern about the use of the proposed recycling fees, in particular how the fees would be used to support the efficient operation of WEEETRF. In line with the "polluter pays" principle, she was of the view that if an individual purchased a piece of REE from overseas through online shopping or parallel import, the person should pay the proposed recycling fees as the equipment would ultimately be disposed of at WEEETRF or other licensed recycling facilities for treatment. By the same token, if a person who had paid the fees but did not use the treatment services provided by the WEEETRF operator or other licensed recyclers, the person should be refunded. She suggested that consideration be given to imposing an end-of-life fee which required consumers to purchase a sticker at the time of disposal of end-of-life products.</p>	

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		<p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) WEEETRF to be developed at the EcoPark in Tuen Mun would be operated on a commercial basis. The operating costs of WEEETRF would be about \$200 million per annum; (b) internationally, only Japan adopted an end-of-life fee charging mechanism. Among the different charging methods considered, an end-of-life fee might encourage illegal dumping and free-riding by placing regulated e-waste in the municipal waste system, which would in turn disincentivize consumers to pay the fee and dispose of regulated e-waste properly; and (c) under the mandatory PRS on WEEE, regulated e-waste would be treated at WEEETRF or other licensed recycling facilities regardless of the channels through which they were collected or whether a financial contribution had been previously made towards their treatment. <p>As requested by Ms HO, the Administration undertook to clarify whether the proposed recycling fees would be payable if an individual purchased a piece of REE in Hong Kong but used the item outside Hong Kong.</p>	<p>Admin (paragraph 7(a) of the minutes refers)</p>
<p>010730 - 011638</p>	<p>Chairman Dr Kenneth CHAN Administration</p>	<p>While expressing support for the mandatory PRS on WEEE, Dr Kenneth CHAN expressed concern that –</p> <ul style="list-style-type: none"> (a) some private WEEE recyclers might break down the treatment processes into several parts or undertake the processes on a small scale such that their operation would not be subject to the proposed licensing control; and (b) since some types of regulated e-waste contained hazardous components which would have adverse environmental impacts, the Administration should be mindful of the hazardous nature of WEEE even if the treatment processes were conducted on a small scale or regulated e-waste was stored in premises of multi-storey buildings where 	

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		<p>the relevant hardware requirements intended to be imposed as licensing conditions should have been met.</p> <p>The Administration assured members that while exemptions would be granted under the proposed licensing control, the treatment and storage of regulated e-waste would be governed by different legislation.</p> <p>Dr CHAN suggested that the Administration could consider using "e-waste" ("電器廢物") or "WEEE" ("廢電器電子產品") as a general term to describe the regulated electrical equipment and electronic equipment that had been abandoned under the Bill. He also requested the Administration to –</p> <p>(a) in respect of the licensing requirements as proposed in the Bill, advise the number of private recyclers undertaking recycling of regulated e-waste who would be exempted from obtaining a waste disposal licence under section 16 of the WDO; and</p> <p>(b) advise the number of fire outbreaks in recycling plants in Hong Kong in the past few years.</p>	<p>Admin (paragraphs 7(d) and (e) of the minutes refer)</p>
<p>011639 - 012145</p>	<p>Chairman Mr Andrew LEUNG Administration</p>	<p>Mr Andrew LEUNG expressed concern that –</p> <p>(a) the future WEEETRF operator might be monopolizing WEEE recycling and might deprive other WEEE recyclers of their business;</p> <p>(b) if the percentage of the proposed recycling fees to be borne by different stakeholder groups, such as manufacturers, importers, distributors, retailers and consumers, along the supply chain was not stipulated, a major part of the fees might ultimately be borne by consumers; and</p> <p>(c) there might be occasions that consumers were to bear the entire part of the fees or even overcharged by retailers of REE.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration responded that –</p> <p>(a) based on the previous engagement with the affected trades and other relevant stakeholders, they held the view that collecting the proposed recycling fees at the supplier level through importers when the relevant products were imported into Hong Kong for local sale could achieve a proper balance among different considerations; and</p> <p>(b) while the proposed recycling fees to be collected from the suppliers might be shared among different stakeholder groups with the exact amount to be determined entirely by market forces, a seller would be required to issue a proper receipt specifying the recycling fee which had been or would be paid to the Government by registered suppliers upon sale of REE to better inform consumers.</p>	
012146 - 012830	Chairman ALA10 Dr Kenneth CHAN	Arrangements of future meetings	