

立法會
Legislative Council

LC Paper No. CB(1)1157/14-15
(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 third meeting
held on Tuesday, 2 June 2015, at 2:30 pm
in Conference Room 2B 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 Cyd HO Sau-lan, JP
Hon Charles Peter MOK, JP
Dr Hon Kenneth CHAN Ka-lok
Hon KWOK Wai-keung

Members absent : Hon WONG Ting-kwong, SBS, JP
Hon CHAN Hak-kan, JP
Hon WU Chi-wai, MH

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 Angel SHEK
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

Action

I. Confirmation of minutes

(LC Paper No. CB(1)878/14-15 — Minutes of the meeting held on
4 May 2015)

The minutes of the meeting held on 4 May 2015 were confirmed.

II. Meeting with the Administration

Matters arising from previous meetings

(LC Paper No. CB(1)788/14-15(05) — List of follow-up actions
arising from the meeting on
9 April 2015

Action

- LC Paper No. CB(1)788/14-15(06) — Administration's response to the issues raised at the meeting on 9 April 2015
- LC Paper No. CB(1)919/14-15(01) — Administration's response to the issues raised at the meeting on 4 May 2015
- LC Paper No. CB(1)725/14-15(01) — Assistant Legal Adviser's letter dated 8 April 2015 to the Administration
- LC Paper No. CB(1)807/14-15(02) — Administration's reply to Assistant Legal Adviser's letter dated 8 April 2015
- LC Paper No. CB(1)788/14-15(04) — Assistant Legal Adviser's letter dated 23 April 2015 to the Administration
- LC Paper No. CB(1)919/14-15(02) — Administration's reply to Assistant Legal Adviser's letter dated 23 April 2015

Relevant papers

- 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(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

Action

LC Paper No. CB(1)712/14-15(04) — Background brief prepared by
the Legislative Council
Secretariat)

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

Follow-up actions to be taken by the Administration

Recycling fee

3. According to the proposed section 37(1) of the Product Eco-responsibility Ordinance, a recycling fee was payable in respect of a piece of regulated electrical equipment ("REE") if the equipment satisfied any requirement under the proposed section 37(1)(a) and if the registered supplier concerned satisfied any requirement under the proposed section 37(1)(b). Further, according to the Administration's response in paragraphs 4 and 5 of LC Paper No. CB(1)919/14-15(02), it appeared that the Administration's policy intent was that "the proposed recycling fee is payable so long as the REE is 'distributed' to a consumer in the local market" and "if a registered supplier distributes an item of REE directly to a consumer outside Hong Kong, the REE is not regarded as being 'distributed' to the local market".

Admin 4. Given that there was no reference to "local market" in the proposed section 37(1)(b)(i) nor in the proposed definition of "distribute", a registered supplier might not be aware of the policy intent by referring to the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment)(Amendment) Bill 2015. As such, the Administration was requested to consider amending the proposed section 37 and/or any other relevant provision with a view to reflecting the said policy intent clearly to avoid any misunderstanding in respect of the duty to pay the proposed recycling fee.

Admin 5. The Administration was also requested to explain the operation of the recycling fee mechanism where a registered supplier leased any REE to a consumer, or transmitted/delivered the equipment for leasing; and how consumers could identify whether the REE leased to them was subject to a recycling fee or not if the REE had been leased by the supplier more than once.

E-waste collection and recycling businesses

Admin 6. The Administration was requested to address the concerns/views raised by members as follows –

Action

- (a) private collectors might dismantle a piece of waste electrical and electronic equipment ("WEEE") to obtain component parts of higher commercial value for sale and dispose of the residual parts without proper treatment (e.g. detoxification); and
- (b) notwithstanding that both the operator of the Waste Electrical and Electronic Equipment Treatment and Recycling Facility ("WEEETRF") and private recyclers were subject to the same licensing requirements under the mandatory producer responsibility scheme on WEEE, and WEEETRF was contractually obliged to accept any regulated e-waste including items of lower commercial value, WEEETRF might potentially drive existing or prospective private recyclers out of the recycling market, or monopolize certain e-waste treatment services, as the former enjoyed advantages over private recyclers in terms of its capital-intensive facilities that could provide a wider spectrum of or more specialized treatment services and bring about greater profits and market coverage.

III. Any other business

Date of next meeting

7. The Chairman reminded members that the next meeting of the Bills Committee would be held on Monday, 15 June 2015, at 10:45 am.

(Post-meeting note: At the request of the Administration, and with the concurrence of the Chairman, the meeting of the Bills Committee originally scheduled for 15 June 2015 was re-scheduled to Monday, 22 June 2015, at 9:00 am. Members of the Bills Committee had been informed of the arrangements vide LC Paper No. CB(1)947/14-15 issued on 5 June 2015.)

7. There being no other business, the meeting ended at 4:30 pm.

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

**Proceedings of the third meeting
on Tuesday, 2 June 2015, at 2:30 pm
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000057 - 000130	Chairman	The minutes of the meeting held on 4 May 2015 (LC Paper No. CB(1)878/14-15) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000131 - 002044	Chairman Administration Mr Vincent FANG	<p>The Administration briefed members on its response to the issues raised at the meeting on 9 April 2015 (LC Paper No. CB(1)788/14-15(06)).</p> <p>The Chairman sought clarification on whether the proposed recycling fee was payable if a person purchased a piece of regulated electrical equipment ("REE") proposed under the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment)(Amendment) Bill 2015 ("the Bill") from places outside Hong Kong or through an online shopping website operated by an overseas company for the person's own use in Hong Kong.</p> <p>The Administration advised that –</p> <p>(a) under the proposed section 37 of the Product Eco-responsibility Ordinance, the responsibility to pay the proposed recycling fee lied with a registered supplier, i.e. a person who manufactured REE in Hong Kong in the course of his/her business or who caused REE to be imported into Hong Kong for distribution in the course of his/her business, and registered under the proposed section 33;</p> <p>(b) the proposed recycling fee was payable if a registered supplier distributed an item of REE (directly to a consumer or through another party) to the Hong Kong market or used an item of REE in Hong Kong for the first time; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) manufacturers/sellers of electrical and electronic equipment operating outside Hong Kong would not fall under the definition of "registered supplier", and would not be required to pay the proposed recycling fee to the Government if an individual in Hong Kong purchased an item of REE from them for personal use.</p> <p>Mr Vincent FANG enquired whether the Waste Electrical and Electronic Equipment Treatment and Recycling Facility ("WEEETRF") would collect and recycle WEEE if some parts of the equipment had been disassembled and/or taken apart.</p> <p>The Administration responded that –</p> <p>(a) WEEETRF was obliged under the Design, Build and Operate ("DBO") contract to accept any e-waste even if some parts of the equipment had been disassembled, taken apart or damaged;</p> <p>(b) WEEETRF might engage private recyclers and second-hand dealers in the collection of WEEE; and</p> <p>(c) both the WEEETRF operator and private recyclers would be required to obtain a waste disposal licence under section 16 of the Waste Disposal Ordinance (Cap. 354) ("the WDO") for the disposal (including storage, treatment, reprocessing and recycling) of e-waste.</p>	
002045 - 010509	Chairman Administration Ms Cyd HO Dr Kenneth CHAN	<p>The Administration briefed members on its response to the views and concerns expressed by deputations/individuals and members at the meeting on 4 May 2015 (LC Paper No. CB(1)919/14-15(01)).</p> <p>The Chairman and Dr Kenneth CHAN expressed concerns that notwithstanding that both the WEEETRF operator and private recyclers were subject to the same licensing requirements and WEEETRF was contractually obliged to accept any e-waste, WEEETRF might potentially drive existing or prospective private recyclers out of the recycling market, or monopolize certain e-waste treatment services</p>	Admin (paragraph 6(b) of the minutes refers)

Time marker	Speaker	Subject(s)	Action required
		<p>as the former enjoyed advantages over private recyclers in terms of its capital-intensive facilities that could provide a wider spectrum of or more specialized treatment services and bring about greater profits and market coverage.</p> <p>The Administration responded that –</p> <p>(a) since the development of a WEEE treatment plant involved significant capital and operating costs, which might not be commercially viable, there had been calls from the public for the Government to develop a WEEE treatment facility (i.e. the prospective WEEETRF);</p> <p>(b) given a treatment capacity of about 30 000 tonnes of e-waste per annum, WEEETRF would not be able to accept and treat all the WEEE generated in Hong Kong per year (some 70 000 tonnes), or monopolize the market. With the enhanced import and export control proposed under the Bill, it was envisaged that the majority of e-waste would be retained within Hong Kong, thereby enhancing the business opportunities for WEEE collection and treatment in the local recycling market as a whole for WEEETRF and private recyclers alike; and</p> <p>(c) the Bill did not specifically provide for the operation of WEEETRF. The operation of WEEETRF would be monitored by the Administration through contractual arrangements.</p> <p>The Chairman and Ms Cyd HO pointed out that the problem of "cherry picking" would occur in the collection of WEEE as private recyclers might tend to dismantle a piece of WEEE to obtain the component parts of higher commercial value for sale while leaving the non-marketable parts to WEEETRF for treatment, or disposing them without proper treatment at all.</p> <p>The Administration responded that –</p> <p>(a) the operating cost of WEEETRF was payable based on the weight of the e-waste</p>	<p>Admin (paragraph 6(a) of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action required
		<p>collected and treated in the facility, irrespective of their commercial value;</p> <p>(b) some form of financial incentives might be provided to attract private collectors to hand over WEEE they collected to WEEETRF or other licensed recycling facilities for proper disposal; and</p> <p>(c) public education would be stepped up to promote proper WEEE collection and recycling.</p> <p>Dr Kenneth CHAN reiterated his concerns about private recyclers seeking to circumvent the proposed licensing control by breaking down the treatment processes into smaller scale operation in view of the proposed exemption for storage of e-waste with a certain volume offered under the proposed section 16(2)(eb) of the WDO.</p> <p>The Administration took note of Dr CHAN's concerns above.</p>	
010510 - 013909	<p>Chairman Administration Assistant Legal Adviser 10 ("ALA10") Dr Kenneth CHAN</p>	<p>Discussion on –</p> <p>(a) the correspondences between ALA10 and the Administration (LC Paper Nos. CB(1)725/14-15(01), CB(1)807/14-15(02), CB(1)788/14-15(04) and CB(1)919/14-15(02)); and</p> <p>(b) matters arising from ALA10's enquiries on the proposed section 37 under the Bill (as set out in paragraph 1 of LC Paper No. CB(1)996/14-15(01) issued on 16 June 2015)</p> <p>After discussion, the Administration was requested to consider amending the proposed section 37 and/or any other relevant provision with a view to reflecting clearly the policy intent that the proposed recycling fee would be payable so long as the REE was distributed to a consumer in the local market, and if a registered supplier distributed an item of REE directly to a consumer outside Hong Kong, the REE would not be regarded as being distributed to the local market.</p>	<p>Admin (paragraph 4 of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action required
		<p>In reply to ALA10, the Administration confirmed that the proposed recycling fee would not be payable by a registered supplier for giving an item of REE to a person located outside Hong Kong as a prize or gift for business purposes, as the scenario did not involve any distribution of REE in Hong Kong.</p> <p>Referring to the proposed section 41(1), which required a REE seller to have a removal service plan under which for every item of REE purchased by a consumer, a used equipment of the same class could be removed for proper disposal at no extra charge to the consumer, ALA10 requested the Administration to clarify its policy intent in respect of the situation where a consumer had bought a piece of REE from a seller, in particular whether the seller would be required to remove the piece of REE from a premises designated by a consumer pursuant to the Bill if the consumer did not purchase any piece of new REE of the same class from the seller.</p> <p>The Administration responded that –</p> <p>(a) the removal service under the proposed section 41(1) would be arranged by REE sellers on a "new for old" basis. When a consumer purchased a piece of new REE from a seller, the seller would be required to arrange the removal of an old equipment of the same class (if any), irrespective of whether the old equipment was purchased from the seller; and</p> <p>(b) the availability of removal services did not mean that a consumer must use such services. A consumer might choose to make separate removal arrangement for an old REE at his or her own cost.</p>	
<p>Clause-by-clause examination of the Bill (The Bill [LC Paper No. CB(3)513/14-15])</p>			
<p>013910 - 014633</p>	<p>Chairman Administration</p>	<p>Part 1 – Preliminary</p> <p><u>Clause 1 – Short title and commencement</u></p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Part 2 – Amendments to Product Eco-responsibility Ordinance</p> <p><u>Clause 2 – Product Eco-responsibility Ordinance amended</u></p> <p><u>Clause 3 – Section 3 amended (interpretation)</u></p> <p><u>Clause 4 – Section 4 amended (prescribed products to which Part 2 applies)</u></p> <p><u>Clause 5 – Section 5 amended (general provisions as to regulations made under this Ordinance)</u></p> <p><u>Clause 6 – Section 7 amended (powers to obtain information, enter places for routine inspection, etc.)</u></p> <p><u>Clause 7 – Section 13 amended (appeals)</u></p> <p>Members raised no query to the above clauses.</p>	
014634 - 020105	Chairman Administration Dr Kenneth CHAN	<p><u>Clause 8 – Part 4 added</u></p> <p><i><u>Part 4 – Regulated Electrical Equipment</u></i></p> <p><i><u>Division 1 – Interpretation</u></i></p> <p><i>Proposed section 31 – Interpretation of Part 4</i></p> <p>Dr Kenneth CHAN enquired whether the proposed recycling fee would be payable if a registered supplier leased any REE to a consumer, or transmitted/delivered the equipment for leasing.</p> <p>The Administration responded that –</p> <p>(a) the proposed recycling fee would be payable when a piece of new REE was leased for the first time or transmitted/delivered for leasing for the first time, but not when any used REE product was distributed through subsequent leases or subsequent transmission/delivery for leasing; and</p> <p>(b) if the registered supplier in question used a piece of REE for the first time, the proposed recycling fee would be payable in accordance with the proposed section 37(1)(b)(iii).</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>At the request of Dr CHAN, the Administration agreed to provide supplementary information on the operation of the recycling fee mechanism where a registered supplier leased any regulated REE to a consumer, or transmitted/delivered the equipment for leasing; and how consumers could identify whether the REE leased to them was subject to a recycling fee or not if the REE had been leased by the supplier more than once.</p> <p><i>Division 2 – Registration of Suppliers</i></p> <p><i>Proposed section 32 – Prohibition of carrying on business of distributing regulated electrical equipment without registration</i></p> <p><i>Proposed section 33 – Registration of suppliers</i></p> <p><i>Proposed section 34 – Cancellation of registration</i></p> <p>Members raised no query to the proposed sections 32 to 34 above.</p>	Admin (paragraph 5 of the minutes refers)
020106 - 020225	Chairman Administration	Date of next meeting	