

立法會
Legislative Council

LC Paper No. CB(1)1206/14-15
(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 fourth meeting
held on Monday, 22 June 2015, at 9:00 am
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
Hon KWOK Wai-keung

Public Officers attending : **For item I**

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 Elaine NG
Senior 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. Meeting with the Administration

Matters arising from previous meeting

(LC Paper No. CB(1)996/14-15(01) — List of follow-up actions
arising from the meeting on
2 June 2015

Clause-by-clause examination of the Bill

LC Paper No. CB(1)712/14-15(01) — Marked-up copy of the Bill
prepared by the Legal Service
Division (Restricted to
Members)

Action

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(04)	— Background brief prepared by the Legislative Council Secretariat)

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

Follow-up actions to be taken by the Administration

Provision of recycling label and receipt

2. Under the proposed section 35(2) in the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment)(Amendment) Bill 2015 ("the Bill"), if a seller distributed any regulated electrical equipment ("REE") to a consumer, the seller was required, under the proposed section 35(2)(a), to provide to the consumer a recycling label that was appropriate for the equipment. Further, according to the Administration's view that was expressed at the meeting, it seemed to be the Administration's policy intent that a supplier who distributed an item of REE to a consumer directly in Hong Kong would also be required to satisfy the said requirement. Given that "supplier" and "seller" were respectively defined in the Bill and, according to the respective definitions, a supplier might not satisfy the requirements of a seller, the Administration was requested to consider whether it was necessary to amend the proposed section 35 and/or any other relevant provision with a view to reflecting the said policy intent clearly in respect of the duty to provide the recycling label.

Admin

3. According to the proposed section 35(4), providing REE to an owner or tenant of a residential property under an agreement for sale and purchase, tenancy agreement or renovation agreement, for the property without charging specifically for the equipment did not constitute distributing the equipment. The Administration was requested to elaborate on the charging of recycling fee as well as the provision of recycling label and receipt if the property developers or landlords in question –

Admin

- (a) imported the REE directly from an overseas manufacturer; or
- (b) purchased the REE from a registered supplier in Hong Kong.

Action

Admin

4. In respect of the proposed section 36, the Administration was requested to explain how the recycling labels of a particular class of REE would be provided by the Director of Environmental Protection ("the Director") to registered suppliers under the proposed section 36(1), or a person who requested to be provided with the labels under the proposed section 36(3).

5. According to the Administration, the amount of the recycling fee to be paid by a person who requested for a recycling label of a particular class of REE pursuant to the proposed section 36(3) would be the same as the amount of the recycling fee which was payable under the proposed section 37(1) in respect of a piece of REE that belonged to the same class of the recycling label as requested. Given that the recycling fee was payable only once in respect of any REE pursuant to the proposed section 37(2) and with a view to avoiding the public perception of the aforesaid situation as "double-charging" in respect of a piece of REE, the Administration was requested to –

Admin

- (a) advise the policy and legislative intent in respect of the application of the proposed section 36(3) and the circumstances that the proposed section was intended to be applicable to, such as the situations where a supplier (or any person) would be required to pay the recycling fee under the proposed section 36(3)(b) in respect of a piece of REE and whether the person making the request would be required to provide any justifications for the request;
- (b) advise how a request made pursuant to the proposed section 36(3) would be dealt with if the request was supported by evidence that a recycling fee for the piece of REE concerned had already been paid pursuant to the proposed section 37;
- (c) consider setting out the circumstances which were stated in the Administration's response to paragraph (a) above in the proposed section 36 or any other part of the Bill with a view to reflecting the policy and legislative intent in the Bill; and
- (d) advise the design of the recycling label.

Definition of "supplier" and "distribute"

Admin

6. The Administration was requested to clarify, in the light of the proposed definitions of "supplier" and "distribute" in the Bill and the nature of services provided by logistics companies (in particular, services for transporting an item of REE from a person to another which involved an exchange or a disposal of REE for consideration (e.g. postage or freight charges) in Hong Kong), whether a courier (or its company) that provided the aforesaid services would constitute

Action

distributing any REE and whether a logistics company that provided such courier services would fall under the definition of "supplier" and hence would have to pay or would have paid a recycling fee for the equipment.

Computation of recycling fee

Admin

7. According to the proposed section 37(1) under the Bill, a recycling fee was payable in respect of a piece of 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). The Administration was requested to advise whether and how the quantities of REE to be imported to or manufactured in Hong Kong by registered suppliers would be verified against the periodic returns to be submitted by registered suppliers to the Director for computation of the recycling fees payable.

II. Any other business

Date of next meeting

8. The Chairman reminded members that the next meeting of the Bills Committee would be held on Tuesday, 7 July 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 7 July 2015 was re-scheduled to Monday, 20 July 2015, at 2:30 pm. Members of the Bills Committee had been informed of the arrangements vide LC Paper No. CB(1)1005/14-15 issued on 24 June 2015.)

9. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1
Legislative Council Secretariat
25 August 2015

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

**Proceedings of the fourth meeting
on Monday, 22 June 2015, at 9:00 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with the Administration</i>			
000311 - 000458	Chairman Administration	List of follow-up actions arising from the meeting of the Bills Committee held on 2 June 2015 (LC Paper No. CB(1)996/14-15(01))	
Clause-by-clause examination of the Bill (The Bill [LC Paper No. CB(3)513/14-15])			
000459 - 005649	Chairman Administration Assistant Legal Adviser 10 ("ALA10") Mr WU Chi-wai Mr Jeffrey LAM Ms Cyd HO	<p>Part 2 – Amendments to Product Eco-responsibility Ordinance</p> <p><u>Clause 8 – Part 4 added</u></p> <p><u>Part 4 – Regulated Electrical Equipment</u></p> <p><u>Division 3 – Obligations of Registered Suppliers and Sellers</u></p> <p><i>Proposed section 35 – Recycling label and receipt must be provided when distributing regulated electrical equipment</i></p> <p>Discussion on matters arising from ALA10's enquiries on the proposed section 35(2) under the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 ("the Bill") relating to the obligations of a seller to provide recycling label when distributing any regulated electrical equipment ("REE").</p> <p>The Administration advised that –</p> <p>(a) when a supplier registered under the proposed section 33 distributed an item of REE to a consumer directly in Hong Kong, the supplier should be regarded as a REE seller, and would be required to satisfy the requirements stipulated in the proposed section 35(2)(a) and (b); and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>of the recycling fees payable; and to submit an audit report to the Director every year in respect of the returns; and</p> <p>(b) the Administration would conduct random checks on the quantities of REE imported to or manufactured in Hong Kong by a registered supplier against the periodic returns submitted by the supplier.</p> <p>The Chairman, Mr WU Chi-wai and Ms Cyd HO expressed concerns about the charging of recycling fee as well as the provision of recycling label and receipt when property developers or landlords provided REE to an owner or a tenant of a residential property under an agreement for sale and purchase, tenancy agreement or renovation agreement for the property without charging specifically for the equipment.</p> <p>The Administration advised that –</p> <p>(a) according to the proposed section 37(1), the recycling fee for an item of REE would be paid or would have been paid by a registered supplier that distributed the equipment under certain circumstances, or used the equipment for the first time;</p> <p>(b) under the proposed section 35(1), if a registered supplier distributed to a person any REE for further distribution in Hong Kong to a consumer, the supplier had to provide to the person a recycling label that was appropriate for the equipment. Similarly, under the proposed section 35(2), if a seller distributed any REE to a consumer, the seller had to provide to the consumer a recycling label that was appropriate for the equipment;</p> <p>(c) under the proposed section 35(4), the provision of REE by property developers, landlords, interior design companies, etc. without charging specifically for the equipment in the course of sale, letting or renovation of a residential property did not constitute distributing any REE, and hence was not subject to the requirement to provide recycling labels appropriate for the</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>equipment under the proposed section 35(2); and</p> <p>(d) the removal service under the proposed section 41 would be arranged by a REE seller on a "new for old" basis, irrespective of whether the old equipment was purchased from the seller and whether a recycling label was affixed to the old equipment.</p> <p>At the request of Mr WU Chi-wai, the Administration agreed to elaborate on the charging of recycling fee as well as the provision of recycling label and receipt where the property developers or landlords in question –</p> <p>(a) imported the REE directly from an overseas manufacturer; or</p> <p>(b) purchased the REE from a registered supplier in Hong Kong.</p>	<p>Admin (paragraph 3 of the minutes refers)</p>
<p>005650 - 012510</p>	<p>Chairman Administration ALA10 Ms Cyd HO Mr WU Chi-wai</p>	<p><i>Proposed section 36 – Director must provide recycling labels</i></p> <p>Discussion on matters arising from ALA10's enquiries on the proposed section 36 relating to the provision of recycling labels by the Director</p> <p>After discussion, the Administration was requested to –</p> <p>(a) advise the policy and legislative intent in respect of the application of the proposed section 36(3) and the circumstances that the proposed section was intended to be applicable to, such as the situations where a supplier (or any person) would be required to pay the recycling fee under the proposed section 36(3)(b) in respect of a piece of REE and whether the person making the request would be required to provide any justifications for the request;</p> <p>(b) advise how a request made pursuant to the proposed section 36(3) would or could be dealt with if the request was supported by evidence that a recycling fee for the piece of REE concerned had already been paid pursuant to the proposed section 37;</p>	<p>Admin (paragraph 5 of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(c) consider setting out the circumstances which were stated in the Administration's response to paragraph (a) above in the proposed section 36 or any other part of the Bill with a view to reflecting the policy and legislative intent in the Bill; and</p> <p>(d) advise the design of the recycling label.</p> <p>At the request of Ms Cyd HO, the Administration undertook to provide information on how the recycling labels of a particular class of REE would be provided by the Director to registered suppliers under the proposed section 36(1), or a person who requested to be provided with the labels under the proposed section 36(3).</p>	<p>Admin (paragraph 4 of the minutes refers)</p>
012511 - 013139	<p>Chairman Administration Ms Cyd HO Mr WU Chi-wai</p>	<p><i>Proposed section 37 – Registered supplier must pay recycling fee</i></p> <p>At the request of Ms Cyd HO, the Administration would provide information on whether and how the quantities of REE to be imported to or manufactured in Hong Kong by registered suppliers would be verified against the periodic returns to be submitted by registered suppliers to the Director for computation of the recycling fees payable.</p> <p>In reply to Mr WU Chi-wai's enquiry, the Administration advised that the proposed section 40 provided for the arrangements for recovering outstanding recycling fee payable under the proposed section 37 for REE (or any part of the fee) from a person. The Director might serve an assessment notice on the person demanding payment of an assessed amount of recycling fee. An outstanding amount of recycling fee payable under the proposed section 37 was recoverable as a civil debt to the Government.</p>	<p>Admin (paragraph 7 of the minutes refers)</p>
013140 - 013212	<p>Chairman Administration</p>	<p>Date of next meeting</p>	