

立法會
Legislative Council

LC Paper No. CB(1)48/15-16
(These minutes have been seen
by the Administration)

Ref : CB1/BC/4/14/2

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

**Minutes of sixth meeting
held on Friday, 18 September 2015, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Members present : Ir Dr Hon LO Wai-kwok, SBS, MH, JP (Chairman)
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, 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

Members absent : Hon Vincent FANG Kang, SBS, JP
Hon Cyd HO Sau-lan, JP

**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

Dr Alain LAM
Principal Environmental Protection Officer
(Waste Management Policy)
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 Sharon LO
Senior Council Secretary (1)9

Ms Mandy LI
Council Secretary (1)1

Action

I. Confirmation of minutes

- | | |
|-------------------------------|--|
| (LC Paper No. CB(1)1157/14-15 | — Minutes of the meeting held on 2 June 2015 |
| LC Paper No. CB(1)1206/14-15 | — Minutes of the meeting held on 22 June 2015 |
| LC Paper No. CB(1)1208/14-15 | — Minutes of the meeting held on 20 July 2015) |

The minutes of the meetings held on 2 June, 22 June and 20 July 2015 respectively were confirmed.

Action

II. 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

LC Paper No. CB(1)1115/14-15(01) — List of follow-up actions arising from the meeting on 22 June 2015

LC Paper No. CB(1)1232/14-15(01) — List of follow-up actions arising from the meeting on 20 July 2015

LC Paper No. CB(1)996/14-15(02) — Administration's responses to the issues raised at the meetings on 2 June, 22 June and 20 July 2015

LC Paper No. CB(1)1232/14-15(02) — Assistant Legal Adviser's letter dated 28 July 2015 to the Administration

LC Paper No. CB(1)1240/14-15(01) — Administration's reply to Assistant Legal Adviser's letter dated 28 July 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)

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)

Action

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

Follow-up actions to be taken by the Administration

Permit required for the import/export of e-waste into/from Hong Kong

Admin 3. In respect of the proposed amendments to sections 20A and 20B of the Waste Disposal Ordinance (Cap. 354) ("WDO") under clauses 14 and 15 of the Bill respectively, the Administration was requested to consider whether it was necessary to amend the reference of "any e-waste" (任何電器廢物) to clearly reflect the policy intent that such e-waste was confined to electrical equipment or electronic equipment that, judging by its appearance, was an item set out in column 2 of the proposed Schedule 6 to the Product Eco-responsibility Ordinance (Cap. 603) ("PERO") and had been abandoned.

Defence of due diligence for an offence in relation to import/export of e-waste into/from Hong Kong

Admin 4. The Administration was requested to consider amending "the defence" to "the defence under subsection (5)" in the proposed section 20G(6) of WDO to reflect the policy intent that the proposed section 20G(6) was only applicable to the defence under the proposed section 20G(5) but not applicable to the defence under section 20G(1).

Recycling fee payable by registered suppliers

Admin 5. According to the Administration, it would propose Committee Stage amendments ("CSAs") to the relevant clauses of the Bill to replace "recycling fee" by "recycling levy" when referring to recycling fee payable under the proposed section 37 of PERO, and hence the proposed section 44(3) (which provided that "the amount of recycling fee payable under section 37 was not limited by reference to the amount of administrative or other costs incurred, or likely to be incurred, in the provision of any particular service, facility or matter") would no longer be necessary and would be removed. In view of the suggested removal of the proposed section 44(3), the Administration was requested to advise the factors that it would take into account or make reference to in setting the recycling levy, and whether it would consider specifying those factors in the relevant regulation to be made under PERO in respect of the levy.

Action

III. Any other business

Date of next meeting

6. The Chairman remarked that the Bills Committee had completed the clause-by-clause examination of the Bill, and would consider the CSAs to be proposed by the Administration at the next meeting.

7. The Chairman said that he would work out the date of the next meeting with the Clerk, taking into account the progress of Administration's preparation of the draft CSAs. Members would be informed of the meeting arrangements in due course.

8. There being no other business, the meeting ended at 12:20 pm.

Council Business Division 1
Legislative Council Secretariat
23 October 2015

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

**Proceedings of the sixth meeting
on Friday, 18 September 2015, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000118 - 000158	Chairman	The minutes of the meetings held on 2 June, 22 June and 20 July 2015 (LC Paper Nos. CB(1)1157/14-15, CB(1)1206/14-15 and CB(1)1208/14-15) respectively were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000159 - 005436	Chairman Administration Mr WONG Ting-kwong Mr Andrew LEUNG Mr KWOK Wai-keung Mr WU Chi-wai Mr Jeffrey LAM	<p>The Administration briefed members on its responses to the issues raised at the meetings held on 2 June, 22 June and 20 July 2015 (LC Paper No. CB(1)996/14-15(02)).</p> <p>Mr WONG Ting-kwong, Mr Andrew LEUNG and the Chairman expressed concern that recycling labels affixed to regulated electrical equipment ("REE") might be wilfully removed by waste collectors/recyclers, and reused/counterfeited with a view to circumventing payment of recycling fees under the proposed section 37(1) of the Product Eco-responsibility Ordinance (Cap. 603) ("PERO").</p> <p>The Administration responded that suitable security features would be incorporated in the design to prevent reuse or counterfeiting of recycling labels.</p> <p>In response to Mr Andrew LEUNG's enquiry, the Administration advised that –</p> <p>(a) the removal service under the proposed section 42 of PERO would be arranged by REE sellers on a "new for old" basis, irrespective of whether a recycling label was affixed to the old equipment to be removed;</p> <p>(b) consumer might make removal arrangement for REE at his/her own cost, such as handing over the REE to a community green station or other</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>collectors; and</p> <p>(c) the operator of the Waste Electrical and Electronic Equipment Treatment and Recycling Facility ("WEEETRF") would also operate a number of regional collection points to facilitate disposal of REE and other e-waste by members of the public.</p> <p>Discussion on the scenario where an individual collected a service charge for making application on behalf of a third party to the Director of Environmental Protection ("the Director") for recycling labels under the proposed section 36 of PERO. The Administration advised that the scenario was not within the scope of the proposed regulatory framework for the mandatory producer responsibility scheme ("PRS") on waste electrical and electronic equipment ("WEEE").</p> <p>Mr WU Chi-wai was concerned that a person may circumvent payment of recycling fees through online purchase of REE from overseas websites and distribution of the equipment to the Hong Kong market through parallel trading given that –</p> <p>(a) online purchases of REE from overseas websites did not usually involve registered suppliers in Hong Kong; and</p> <p>(b) logistics companies delivering the REE in question would not be subject to payment of recycling fees if the REE did not belong to the companies.</p> <p>The Administration advised that –</p> <p>(a) under the proposed PRS on WEEE, recycling fees would be collected from suppliers of REE. A person who purchased a piece of REE for his/her own use would not be caught by the legislation;</p> <p>(b) if a person purchased (either locally or from overseas) a piece of REE and distributed the item in the course of the person's business to the Hong Kong market, the person would be regarded as a REE supplier and hence subject to</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>payment of a recycling fee for the item; and</p> <p>(c) as purchase of REE usually required the provision of warranty service by a local supplier, the risk of circumvention of recycling fee through online purchase and parallel trading of REE was low.</p> <p>Discussion on how the Administration could ensure that the operation of WEEETRF would be cost efficient with a view to maintaining the recycling fees at a reasonable level.</p> <p>The Administration pointed out that –</p> <p>(a) with the implementation of PRS on WEEE, the statutory requirement for sellers to make arrangements for REE removal services and demand for proper e-waste recycling services would allow WEEETRF to develop business opportunities. WEEETRF operator would also proactively source and collect e-waste from the community to ensure a ready supply of e-waste for treatment at WEEETRF;</p> <p>(b) as the land for the development and operation of WEEETRF was provided by the Government for free, the WEEETRF operator would not have to pay for the extra costs pertaining to land premium or rentals; and</p> <p>(c) the Administration would conduct audit check on the operation of the WEEETRF and monitor its incomes and expenditures.</p>	
005437 - 005909	Chairman Administration Assistant Legal Adviser 10 ("ALA10")	<p>The Administration briefed members on its reply to ALA10's letter dated 28 July 2015 (LC Paper No. CB(1)1240/14-15(01)).</p> <p>In response to ALA10's enquiry, the Administration advised that the proposed section 16(2A) of WDO aimed to provide certainty and avenue for small-scale recyclers to apply to the Director for a waste disposal licence even if he/she had satisfied the exemption conditions under the proposed section 16(2)(ea) to (ec).</p>	

Time marker	Speaker	Subject(s)	Action required
Clause-by-clause examination of the Bill (The Bill [LC Paper No. CB(3)513/14-15])			
005910 - 010903	Chairman Administration Mr WONG Ting-kwong	<p>Part 3 – Amendments to Waste Disposal Ordinance</p> <p><u>Clause 13 – Section 18 amended (penalties for offences under sections 16, 16A, 16B, 16C and 17 and defences)</u></p> <p>Discussion on the offence under section 16 for storage, treatment, reprocessing or recycling of any e-waste that was not chemical waste; and the defence to the charge for the person to establish that the electrical equipment or electronic equipment concerned did not fall within the definition of that equipment in column 3 of the proposed Schedule 6 to PERO.</p> <p>Mr WONG Ting-kwong considered that it would minimize disputes and offences if it was determined whether an electrical equipment or electronic equipment fell within the definition of that equipment in column 3 of the proposed Schedule 6 before distribution to the Hong Kong market.</p> <p>The Administration explained that the provision of defence under section 20(A) was meant to address the practical difficulties at the waste stream in establishing whether an item of e-waste satisfied the technical definitions of REE through judging by its appearance because that item might be in defective forms.</p>	
010904 - 011350	Chairman Administration	<p><u>Clause 14 – Section 20A amended (permit required for the import of waste into Hong Kong)</u></p> <p><u>Clause 15 – Section 20B amended (permit required for the export of waste from Hong Kong)</u></p> <p>At the request of the Chairman, the Administration would consider whether it was necessary to amend the reference of "any e-waste" (任何電器廢物) in the proposed sections 20A and 20B of WDO to clearly reflect the policy intent that such e-waste was confined to electrical equipment or electronic equipment that, judging by its appearance, was</p>	Admin (paragraph 3 of the minutes refers)

Time marker	Speaker	Subject(s)	Action required
		an item set out in column 2 of the proposed Schedule 6 to PERO and had been abandoned.	
011351 - 011649	Chairman Administration ALA10	<p><u>Clause 16 – Section 20G amended (defence of due diligence, etc.)</u></p> <p>At the request of ALA10, the Administration agreed to consider whether it was necessary to amend "the defence" to "the defence under subsection (5)" in the proposed section 20G(6) of WDO to reflect the policy intent that the proposed section 20G(6) was only applicable to the defence under the proposed section 20G(5) but not applicable to the defence under section 20G(1).</p>	Admin (paragraph 4 of the minutes refers)
011650 - 012200	Chairman Administration Mr WONG Ting-kwong	<p><u>Clause 17 – Section 21A substituted</u></p> <p><u>Clause 18 – Section 33 amended (regulations)</u></p> <p>Part 4 – Amendments to Waste Disposal (Permits, Authorizations and Licences) (Fees) Regulation</p> <p><u>Clause 19 – Waste Disposal (Permits, Authorizations and Licences) (Fees) Regulation amended</u></p> <p><u>Clause 20 – Section 5 added</u></p> <p><u>Clause 21 – Schedule 2 amended (fees)</u></p> <p>Mr WONG Ting-kwong urged the Administration to be cautious when considering any fees and charges in relation to REE taking into account the potential cost impact on consumers.</p> <p>The Administration took note of Mr WONG's concern.</p>	
012201 - 012231	Chairman Administration	<p>Part 5 – Amendment to Waste Disposal (Designated Waste Disposal Facility) Regulation</p> <p><u>Clause 22 – Waste Disposal (Designated Waste Disposal Facility) Regulation amended</u></p> <p><u>Clause 23 – Section 3AB added</u></p> <p>Members raised no query to the above clauses.</p>	

Time marker	Speaker	Subject(s)	Action required
012232 - 013434	Chairman Administration ALA10 Dr Kenneth CHAN	In view of the Administration's intention to move Committee Stage amendments to relevant clauses of the Bill to replace "recycling fee" by "recycling levy" and remove the proposed section 44(3) of PERO, Dr Kenneth CHAN requested the Administration to advise the factors that it would take into account or make reference to in setting the recycling levy.	Admin (paragraph 5 of the minutes refers)
013435 - 013550	Chairman Administration	Meeting arrangements	

Council Business Division 1
Legislative Council Secretariat
23 October 2015