

立法會
Legislative Council

LC Paper No. CB(1)393/15-16
(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 eighth meeting
held on Wednesday, 16 December 2015, at 8:30 am
in Conference Room 2A 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 CHAN Hak-kan, JP
Hon Charles Peter MOK, JP

Members absent : Hon Vincent FANG Kang, SBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon WU Chi-wai, MH
Dr Hon Kenneth CHAN Ka-lok
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

Dr Alain LAM
Principal Environmental Protection Officer
(Waste Management Policy)
Environmental Protection Department

Mr Gilbert MO
Law Draftsman (Acting)
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

Ms Doris LO
Senior Council Secretary (1)1

Action

I. Confirmation of minutes

(LC Paper No. CB(1)242/15-16 — Minutes of the meeting held on
3 November 2015)

The minutes of the meeting held on 3 November 2015 were confirmed.

II. Meeting with the Administration

Matters arising from the meeting on 3 November 2015 and
consideration of revised Committee Stage amendments proposed by the
Administration

(LC Paper No. CB(1)276/15-16(01) — List of follow-up actions
arising from the meeting on
3 November 2015

Action

LC Paper No. CB(1)276/15-16(02) — Administration's response to the issues raised at the meeting on 3 November 2015 and revised draft Committee Stage amendments proposed by the Administration)

Relevant paper

(LC Paper No. CB(1)50/15-16(02) — Administration's response to the issues raised at the meeting on 18 September 2015 and draft Committee Stage amendments proposed by the Administration)

Disclosure

2. Mr Andrew LEUNG said that he was a member of the Hong Kong Trade Development Council.

Discussion

3. The Bills Committee deliberated (index of proceedings attached at the **Annex**) and completed examination of the revised Committee Stage amendments ("CSAs") proposed by the Administration to the Bill.

Follow-up actions to be taken by the Administration

Admin 4. Arising from the discussion at the meeting, the Administration was requested to —

- (a) given that, in gist, the new section 37(1)(a)(ii) of the Product Eco-Responsibility Ordinance (Cap. 603) ("the Ordinance") provided that if a piece of regulated electrical equipment ("REE") was imported into Hong Kong by a registered supplier in the course of the supplier's business for distribution and if the supplier, under the new section 37(1)(b)(ii), used the REE for the first time, the proposed recycling levy would be payable in respect of the REE, clarify whether the proposed recycling levy would be payable in respect of the piece of REE concerned in the following situation: if a supplier, in the course of the supplier's business of REE distribution, imported a piece of REE and used it in any way as the

Action

term "use" was defined under the Bill (for example, by exhibiting the REE for business purposes) but the supplier did not distribute (which was defined to include supplying any REE by way of sale) the piece of REE after such use;

- (b) if the answer to (a) above was negative, consider whether the relevant provisions as drafted should be amended to reflect the position as stated in the answer;
- (c) address the Council on the scope of regulation and the situations where the proposed recycling levy in respect of a piece of REE would be payable with reference to the response given in (a) above at the resumption of the Second Reading debate on the Bill; and
- (d) advise whether a decision made by the Director of Environmental Protection under the new section 36(2) was appealable pursuant to the new section 44 (or any other relevant provision under the Bill or the Ordinance).

Legislative timetable

5. As agreed at the meeting, the Administration would provide supplementary information on the above issues, which would be circulated to members when ready. Subject to any views members and the Legal Adviser to the Bills Committee might have on the Administration's supplementary information, the Chairman would decide whether a further meeting was necessary.

6. Members also agreed that if no further meeting would be held, the Bills Committee would complete scrutiny of the Bill and the Administration intended to resume the Second Reading debate on the Bill at the Council meeting of 27 January 2016. The Chairman would report the deliberations of the Bills Committee to the House Committee on 15 January 2016. The deadline for giving notice of amendments to the Bill would be 18 January 2016.

III. Any other business

7. There being no other business, the meeting ended at 9:20 am.

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

**Proceedings of the eighth meeting
on Wednesday, 16 December 2015, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Confirmation of minutes</i>			
000101 - 000142	Chairman	The minutes of the meeting held on 3 November 2015 (LC Paper No. CB(1)242/15-16) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000143 - 000255	Chairman	Opening remarks	
000256 - 004904	Chairman Administration Mr Andrew LEUNG Assistant Legal Adviser 10 ("ALA10")	<p>Briefing by the Administration on its written response to the issues raised at the meeting on 3 November 2015, and the revised Committee Stage amendments ("CSAs") to the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 ("the Bill") proposed by the Administration (LC Paper No. CB(1)276/15-16(02)).</p> <p>Members and ALA10 raised no query on the revised CSAs set out in Annexes A and B to LC Paper No. CB(1)276/15-16(02).</p> <p>The Chairman and ALA10 sought clarifications regarding whether a supplier who had imported a piece of regulated electrical equipment ("REE") in the course of the supplier's business and exhibited the REE concerned as a sample for business purposes either at trade fairs or in local retail shops would be required to pay the recycling levy in respect of the REE concerned.</p> <p>The Administration replied that the policy intent was that unless a person had imported a piece of REE in the course of the person's business for distribution, the person would not be regarded as a supplier, in the light of the proposed definition of "supplier" under the Bill which did not cover any person who imported REE into Hong Kong for use (which was defined under the Bill to include</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>exhibiting any REE for business purposes). Hence no recycling levy would be required in respect of the REE concerned.</p> <p>Mr Andrew LEUNG disclosed that he was a member of the Hong Kong Trade Development Council.</p> <p>Referring to local trade fairs at which some overseas exhibitors might after the trade fairs distribute (probably via local suppliers/distributors) the products they brought into Hong Kong for exhibition, whereas some others might have the products sent back to their home countries without distributing them in Hong Kong, he requested the Administration to state clearly whether the recycling levy would be payable in respect of REE in such situations.</p> <p>The Chairman observed that under the CSAs to the proposed section 37 of the Product Eco-Responsibility Ordinance (Cap. 603) ("PERO"), if a piece of REE was imported into Hong Kong by a registered supplier in the course of the supplier's business for distribution and if the supplier used the REE for the first time, the proposed recycling levy would be payable in respect of the REE. He requested the Administration to –</p> <p>(a) clarify whether the proposed recycling levy would be payable in respect of a piece of REE if a supplier, in the course of the supplier's business of REE distribution, imported the REE and used it in any way as the term "use" was defined under the Bill (for example, by exhibiting the REE for business purposes) but the supplier did not distribute (which was defined to include supplying any REE by way of sale) the piece of REE after such use;</p> <p>(b) if the answer to (a) above was negative, consider whether the relevant provisions as drafted should be amended to reflect the position as stated in the answer; and</p> <p>(c) address the Council on the scope of regulation and the situations where the proposed recycling levy in respect of a piece of REE would be payable with reference to the response given in (a) above at the resumption of the Second Reading debate on the Bill.</p>	<p>Admin (paragraphs 4(a)-(c) of the minutes refer)</p>

Time marker	Speaker	Subject(s)	Action required
		<p>ALA10 requested the Administration to advise whether a decision made by the Director of Environmental Protection ("the Director") under the proposed section 36(2) of PERO was appealable pursuant to the proposed section 44 (or any other relevant provision under the Bill or PERO).</p> <p>In reply, the Administration advised that –</p> <ul style="list-style-type: none"> (a) the proposed section 36(2) was intended to avoid issuance of recycling labels to registered suppliers more than reasonably necessary. In practice, the Director would generally decide on the number of recycling labels to be issued based on the registered supplier's actual state of business; (b) registered suppliers could request for issuance of more recycling labels if necessary or re-issuance in case of loss of the recycling labels; and (c) the Administration would consult the trade's views regarding whether a decision made by the Director under the proposed section 36(2) should be specified as appealable matters under the REE Regulation to be made under the proposed section 44. <p>On the further enquiries of the Chairman and ALA10, the Administration clarified that –</p> <ul style="list-style-type: none"> (a) the total amount of recycling levy payable under the proposed section 37(1) was determined by the number of REE distributed by the registered supplier concerned, and not by the number of recycling labels the supplier obtained under the proposed section 36(1); (b) a registered supplier would not be required to return any recycling labels issued to him but remained unused upon cancellation of his registration as a supplier; and (c) no administrative/processing fees would be charged in respect of applications for provision of recycling labels under the proposed section 36(1). 	<p>Admin (paragraph 4(d) of the minutes refers)</p>

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		The Administration led members through both Chinese and English version of its revised CSAs clause by clause. Members raised no query.	
<i>Agenda Item III – Any other business</i>			
004905 - 005159	Chairman Administration	Legislative timetable	

Council Business Division 1
Legislative Council Secretariat
5 January 2016