

EP CR 9/150/28 PT.4
LS/B/8/14-15
3919 3513

2877 5029
elee@legco.gov.hk

By Fax (3121 5752)

17 March 2015

Mr Samson LAI
Assistant Director (Waste Management Policy)
Environmental Protection Department
16/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Mr LAI,

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015

I am scrutinizing the Bill with a view to advising Members on its legal and drafting aspects and would like to seek information or clarification on the following matters –

Definitions and their respective interpretations

- (a) in respect of the definition of "residential property", clarification on whether the definition includes a hotel, guesthouse or "service apartment";
- (b) in relation to the definition of "tenant", clarification on whether the definition includes a customer who is permitted to stay in a hotel, guesthouse or "service apartment";

- (c) in relation to the respective definitions for items of electrical or electronic equipment which are specified in the proposed Schedule 6, the considerations in deciding whether a certain function is a "principal function" or "one of the principal functions" of an item in case where the item possesses multiple functions;

Charging of recycling fee

- (d) in respect of the proposed section 37(1), which provides that a recycling fee is payable by a registered supplier for any piece of regulated electrical equipment (REE) if it satisfies the requirements in the proposed section 37(1)(a)(i) or (ii) and the supplier distributes the equipment to a consumer in accordance with the proposed section 37(1)(b)(i) or distributes the equipment for further distribution in Hong Kong to a consumer as provided in the proposed section 37(1)(b)(ii), clarification on whether the proposed recycling fee would be payable if the consumer concerned is an overseas consumer, in the light of paragraph 13(c) of the LegCo Brief (File Ref: EP CR 9/150/28 Pt.4) which states that, among other things, exports of locally manufactured REE and re-exports of imported REE which will ultimately be used outside Hong Kong will be excluded from the collection of the proposed recycling fees; and

Basis of prescribing the proposed recycling fee

- (e) in respect of the proposed section 44(3), which provides that "the amount of recycling fee payable under section 37 *is 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" and in the light of paragraph 12 of the LegCo Brief, information on –
 - (i) the types of "other cost" incurred (or likely to be incurred) that are not "administrative" in the proposed section 44(3);
 - (ii) whether the recycling fees are solely for the purpose of achieving a full cost recovery; and
 - (iii) if the answer to (ii) is in the affirmative, the legal justification of not limiting the amount of recycling fee payable by reference to the costs that are referred to in the

proposed section.

We would be grateful for your reply in both languages to reach us as soon as practicable.

Yours sincerely,

(Miss Evelyn LEE)
Assistant Legal Adviser

c.c. DoJ (Attn.: Miss Cindy CHEUK, GC) (Fax : 2869 1302)
LA