

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

This note provides the supplementary information required at the Bills Committee meeting on 16 December 2015.

*(a) in gist, the new section 37(1)(a)(ii) provides that if a piece of regulated electrical equipment ("REE") is 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), uses the REE for the first time, the proposed recycling levy would be payable in respect of the REE. In the light of the above, the Administration is requested to 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, imports a piece of REE and uses it in any way as the term "use" is defined under the Bill (for example, by exhibiting the REE for business purposes) but the supplier does not distribute (which is defined to include supplying any REE by way of sale) the piece of REE after such use;*

2. "Supplier" means, among others, a person who imports regulated electrical equipment ("REE") into Hong Kong for distribution in the course of the person's business (comments in paragraph 6 below are also relevant). In the above scenario, whether the person falls within the definition of "supplier" as under paragraph (b) of the definition (as per the version presented at the meeting of 16 December 2015, and further enhanced for clarity as per paragraph 6 below) depends, among other things, on whether the REE is imported for distribution.

3. Should the REE be imported into Hong Kong by a person for distribution in the course of the person's business, the person qualifies as a "supplier". This person must be registered under section 32(1) to distribute REE and will have to pay recycling levy under section 37(1)(b)(iii) for REE that he or she has "used" for the first time. The proposed section 40 will also apply to any part of the payable recycling levy which is outstanding upon expiry of the payment deadline. This scenario is essentially the same as the case we discussed at the Bills

Committee meeting on 3 November 2015 where a registered supplier imports in the course of business REE for distribution and donates the REE.

4. On the other hand, if the REE is imported into Hong Kong by a person for use, this person does not fall within the definition of “supplier”. The proposed regulatory framework in the Bill does not apply to the person and the person will not be required to pay recycling levy under section 37. The proposed section 40 will not apply since there will be no recycling fee payable.

5. At the Bills Committee meeting on 16 December 2015, members enquired how our proposed regulatory framework would apply to an overseas manufacturer when he or she exhibits REE at a local trade fair but he or she will not make local distribution of the REE at the fair. In such circumstances, the REE exhibited for business purposes is “for use” instead of “for distribution”, and in our view, the overseas manufacturer concerned does not fall within the definition of “supplier”. The proposed regulatory framework does not apply and the overseas manufacturer will not be required to pay recycling levy under section 37.

*(b) if the answer to (a) above is negative, consider whether the relevant provisions as drafted should be amended to reflect the position as stated in the answer;*

6. We consider that the current provisions (as per the version presented at the meeting of 16 December 2015) already clearly reflect our legislative intent. However, to address any concern about possible misreading and to make it even plainer that “for distribution” relates to the act of import, minor touch-ups in the English text in respect of the definition of “supplier” and the proposed section 37(1)(a)(ii) are proposed

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*supplier* (供應商) means—

- (a) a person who manufactures regulated electrical equipment in Hong Kong in the course of the person’s business; or
- (b) a person who, **in the course of the person’s business**, imports regulated electrical equipment into Hong Kong ~~in the course of the person’s business~~ for distribution, but does not include a person who only provides service for transporting the equipment that does not belong to the person into Hong Kong for another person;

**Section 37(1) -**

(1) Subject to subsection (2), a registered supplier must pay to the Director a recycling levy for any regulated electrical equipment if—

(a) the equipment—

(i) is manufactured in Hong Kong by the supplier in the course of the supplier's business; or

(ii) is, **in the course of the supplier's business**, imported into Hong Kong by the supplier ~~in the course of the supplier's business~~ for distribution, but is not imported during the course of a service provided by the supplier for transporting articles into Hong Kong for another person; and.....

(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;*

7. If so requested by the Bills Committee, the Secretary for the Environment will be pleased to state clearly how the Bill applies under the scenarios stated in (a) above.

(d) *advise whether a decision made by the Director of Environmental Protection under the new section 36(2) is appealable pursuant to the new section 44 (or any other relevant provision under the Bill or the Product Eco-Responsibility Ordinance (Cap. 603)).*

8. We will engage the trades in determining the operational details on how recycling labels may be provided under the proposed section 36(1). We will consider whether a decision made by the Director under the proposed section 36(2) should be prescribed as an appealable matter at the stage of preparing the subsidiary legislation, taking into account feedback from the trades.

**Environmental Protection Department  
December 2015**