

Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015

This note sets out (i) in paragraphs 2 to 12, the Government's response to the issues raised by Bills Committee members at the meeting on 11 January 2016, and (ii) in paragraph 13 our proposed Committee Stage Amendments ("CSAs") incorporating certain changes to the existing provisions and taking into account relevant developments of the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 ("the WEEE Bill").

Response to Issues Raised on 11 January 2016

Definitions

"Beverage", "glass container" and "regulated article"

Further to the Administration's responses stated in LegCo Paper Nos. CB(1)270/15-16(01) and CB(1)407/15-16(01) in respect of the definition of beverage with reference to the food category system under the Codex Alimentarius ("Codex") and given that the definition forms part of the legal basis to determine whether a person has the legal obligation to comply with certain requirements and that failure to comply with any such requirement constitutes an offence, the Administration is requested to –

- (a) provide, for certainty purpose, specific criteria in the definition of "beverage" instead of merely defining the term to mean "every type of drink and includes water" as drafted in the Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015 ("the Bill"); and consider whether to stipulate in the Bill any reference to Codex for determining whether a product falls under the said definition;*

2. Although the Codex has provided a relevant framework that may assist in determining whether a certain product could be regarded as a "beverage", it does not provide a definitive list of "beverage" as such. We have also explained to Members before that it would not be practicable to set out an exhaustive definition of "beverage" products that are subject to the proposed regulation as such a list would require

frequent legislative updating in the light of new product development. Since we have been closely engaging the relevant trades in preparing the operational details of the mandatory producer responsibility schemes (“PRS”) and will continue to do so during the implementation stage, we do not see any major operational difficulties in adopting a general definition of “beverage”. That said, we appreciate the merits of setting out more clearly the scope of coverage of the regulation. To strike a balance between adopting a generic and a prescriptive approach, we suggest to set out the following categories of beverages in the proposed Schedule 6 which are drawn up with reference to the Codex –

Beverage means –

- (a) *a ready-to-serve drink, including –*
 - (i) *alcoholic drink;*
 - (ii) *water (carbonated or uncarbonated) or water-based flavoured drink (carbonated or uncarbonated);*
 - (iii) *milk or dairy-based drink;*
 - (iv) *soybean-based drink;*
 - (v) *fruit or vegetable juice or nectar;*
 - (vi) *coffee, coffee substitute, tea or herbal infusion; and*
 - (vii) *cereal grain drink; or*

- (b) *a product that –*
 - (i) *is a liquid or consists of liquid; and*
 - (ii) *is commonly served as a drink after being diluted or reconstituted.*

Subject to the results of the Bills Committee’s deliberation on the above proposal, we will refine the wordings and propose necessary CSAs to the definition.

- (b) ***explain whether certain products will be regarded as “beverage” under the Bill and hence subject to payment of the recycling levy in the following cases –***
 - (i) ***beverage concentrates (which may be sold in various forms such as syrup/liquid/jelly/powder/solid for drinking after adding water) vis-à-vis ready-to-drink products already diluted with water;***

3. According to *the Concise Oxford English Dictionary*, “beverage” means “a drink other than water”. In this regard, we consider that a

beverage must be in liquid form if it is to be covered by the regulation. There are food products which exist in non-liquid form (say jelly, powder or solid) and may be consumed as beverages after being dissolved in water. However, we consider it inappropriate to regard such products as beverages for the purpose of this mandatory PRS because doing so may cast the net too wide unnecessarily and as such products may be consumed in as non-beverages in actual practice. On the other hand, if the concentrates are already in liquid form, they would be covered by the regulation. As shown in paragraph 2 above, we will amend the proposed Schedule 6 to reflect this intention more clearly.

- (ii) ***a product, such as beauty supplements like collagen drink, which may fall into a classification other than beverages under the Codex, but is marketed and sold by the registered supplier as a beverage; and***

4. According to the proposed Schedule 6 as mentioned in para. 2 above, if a beauty supplement is marketed and sold by its supplier as a drink, even if the product may fall into a classification under the Codex that is not customarily regarded as a beverage, we do not see there is any strong policy reason for us not to treat it as one for the purpose of the regulation.

- (c) ***address a member's concern that unless a clear definition of "beverage" can be made, reconsider expanding the proposed mandatory PRS to cover glass containers other than glass beverage containers simultaneously.***

5. As mentioned in paragraph 2, we suggest to set out the categories of beverages in defining the scope or coverage of the regulation, which should be able to address Members' concern.

In the light of the proposed definition of "regulated article" which means an article constituted by (i) a product (i.e. beverage) (as specified in column 2 of Part 2 of Schedule 6 proposed to be added to the PERO, and (ii) a container (i.e. glass container, whether in the form of a bottle, jar or otherwise) (as specified in column 3 of the aforesaid Part 2 of Schedule 6 opposite to the product) containing that product, and airtight and sealed by machine or with the aid of a tool, the Administration is requested to –

- (a) ***review whether the definition/usage of "container/glass***

container” under the proposed definitions of “regulated article” and “container waste” and in column 3 of Part 2 of Schedule 6 proposed to be added to the PERO under the Bill are consistent; and

6. The proposed provisions for the PERO concern “regulated articles”. Under our phased approach for the implementation of the mandatory PRS, such articles initially include beverages held in glass containers.

7. On the other hand, “container waste” is defined under the Waste Disposal Ordinance (Cap. 354) for the purpose of the relevant licensing/permit controls in respect of an abandoned container that judging by appearance, is a container specified in column 3 of Schedule 6 to the PERO (i.e. “glass container”). It may include a waste glass container that was previously used to contain beverage or other non-beverage products. The adoption of such a definition is appropriate because in practice, different types of glass containers can be mixed at the waste stream and it will be difficult to prove for enforcement purposes if they have been used to contain beverages.

(b) re-consider whether it is necessary to provide a definition for “glass containers” under the Bill, and if it is considered necessary, whether the definition will specify for regulatory purpose the materials of other component parts of the glass containers, such as the lids.

8. We consider that it is not necessary to provide a definition for “glass container”. It is our intention that in order for a container to be regarded as a glass container under the current mandatory PRS, it must be a container that holds the beverage and is made of glass. Whether the container may consist of other features or components made of other materials, e.g. a metallic cap or plastic labels is not a relevant consideration.

The Administration is requested to provide references of the definitions of or descriptions relating to “beverages”, “containers” and “glass containers” in local legislation.

9. Having searched through the Bilingual Laws Information System, we note that –

- (a) the following provisions contain a definition of “beverage” or similar terminologies: section 2 of the Public Health and Municipal Services Ordinance (Cap. 132), regulation 2 of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W), regulation 2 of the Harmful Substances in Food Regulations (Cap. 132AF), section 2 of the Hawker Regulation (Cap. 132AI), section 3 of the Milk Regulation (Cap. 132AQ) and section 2 of the Food Safety Ordinance (Cap. 612);
- (b) the following provisions contain a definition of “container” (except those referring to cargo container): section 2 of the Gas Safety Ordinance (Cap. 51), section 2 of the Factories and Industrial Undertakings (Dangerous Substances) Regulation (Cap. 59AB), section 2 of the Weights and Measures Ordinance (Cap. 68), section 2 of Dutiable Commodities Ordinance (Cap. 109), regulation 2 of the Dried Milk Regulations (Cap. 132R), regulation 2 of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W), section 3 of Milk Regulation (Cap. 132AQ), section 2 of the Preservatives in Food Regulation (Cap. 132BD), Section 2 of the Control of Chemicals Ordinance (Cap. 145), section 2 of Air Pollution Control (Volatile Organic Compounds) Regulation (Cap. 311W), section 2 of Dumping at Sea Ordinance (Cap. 466), and section 2 of Hazardous Chemicals Control Ordinance (Cap. 595); and
- (c) there is no provision that contains a definition of “glass container”.

For details of the provisions shortlisted in the above, please refer to the Annex A.

“Consume”

In the light of the proposed definition of “consume” which means, in relation to a regulated article, “(a) use the product constituting part of the article; or (b) abandon the article”, and given that “product”, as specified in column 2 of Part 2 of Schedule 6, refers to “beverage” and hence in effect does not include the container holding the beverage, the Administration is requested to clarify whether it is the policy intent not to regard using the container holding the product (but not the product itself) as a kind of consumption under the said definition.

10. Having taken into account the Bills Committee's observations, we propose to revise the wordings of the paragraph (a) of the definition of "consume" to better reflect our policy intent, as follows –

consume (耗用), in relation to a regulated article, means—

- (a) ~~use the product constituting part of~~ open the container that constitutes the article for the first time after the container is sealed;
or
- (b) abandon the article

Other issues

The Administration is requested to –

- (a) *provide an assessment to be supported by relevant statistics as appropriate, on the possible switching of containers for holding beverage products, in particular non-alcoholic beverages, from glass containers to containers of other materials (e.g. plastic bottles or paper cartons) by beverage suppliers upon implementation of the mandatory PRS; and*

11. For beverages held in glass containers that are distributed in Hong Kong, the overwhelming majority are alcoholic drinks (80.2%), water (8.6%), and juice products (4.5%). Our assessment is that –

- (a) for alcoholic drinks, glass containers are generally preferred for preservation of product quality. While there is a chance for the trade to increase the use of aluminium cans for beer, it is highly unlikely that the use of glass containers will be significantly reduced;
- (b) for water and juice products, other packaging methods such as plastic bottles or carton boxes are indeed more common. There are marketing or other commercial reasons such that most products currently packed in glass containers will continue to be so packed even after the implementation of the mandatory PRS.

Hence, we advised vide LegCo Paper No. CB(1)384/15-16(01) that we do not consider the proposed phased approach for the mandatory PRS would cause significant "switching effect".

- (b) *provide an estimation on how long it will take to process an application for registration as a registered supplier of regulated articles, and whether the Administration will expedite the processing of such applications under special circumstances, for example, where a supplier originally imported certain regulated articles into Hong Kong solely for export and thus initially had not applied for registration as a registered supplier, but subsequently had to distribute the regulated articles in Hong Kong instead due to cancellation of the export order concerned.*

12. We will finalise the operational details of the registration process at the stage of preparing the subsidiary legislation. We envisage that when an application for registration is made, it should be accompanied with any such supporting information that the Director of Environmental Protection (“DEP”) may require. DEP will accordingly determine whether the application should be approved or rejected. The procedures would be similar to those adopted for the first phase of the Environmental Levy Scheme on Plastic Shopping Bags, and an application for registration under the latter can normally be determined within 21 days upon receipt of the case, with the actual time required depending on whether all the required supporting information is available at the time of submission.

Proposed CSAs

13. Subject to further deliberation of the Bills Committee, we set out at Annex B our proposed CSAs to the Bill, which include –

- (a) CSAs to effect the changes proposed under paragraph 10 above;
- (b) CSAs to repeal or amend certain provisions which will become redundant or require adaptations in view of our plan to commence operation of similar provisions under the WEEE Bill first; and
- (c) CSAs to achieve consistency with similar provisions in the WEEE Bill having regard to the relevant deliberation of the Bills Committee on the WEEE Bill.

**Environmental Protection Department
January 2016**

Examples of Definitions for “Beverage” and “Container”

A. Beverage or Similar Terminologies

Item	Legal Provision	Definition
1	Section 2 of the Public Health and Municipal Services Ordinance (Cap. 132)	“drink” (飲品) does not include water other than- (a) aerated water; (b) distilled water; (c) water from natural springs, either in its natural state or with added mineral substances; and (d) water that is placed in a sealed container and is intended for human consumption;
2	Regulation 2 of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W))	“milk beverage” (奶類飲品) means any beverage resulting from the combining with a liquid of milk fat and other solids derived from milk, whether exclusive of any food additive or otherwise;
3	Regulation 2 of the Harmful Substances in Food Regulations (Cap. 132AF)	[Same as Item 2]
4	Section 2 of the Hawker Regulation (Cap. 132AI)	“drink” (飲品) includes every type of prepared beverage except one that is sealed in a bottle or canister at the time of manufacture;
5	Section 3 of the Milk Regulation (Cap. 132AQ)	[Same as Item 2]
6	Section 2 of the Food Safety Ordinance (Cap. 612)	[Same as Item 1]

B. Container

Item	Legal Provision	Definition
1	Section 2 of the Gas Safety Ordinance (Cap. 51)	“container” (儲存器) means a bulk tank, mini-tank or cylinder;
2	Section 2 of the Factories and Industrial Undertakings (Dangerous Substances) Regulation (Cap. 59AB)	“container” (容器) means any receptacle, vessel, tank, package, bag, wrapping or other thing, whether movable or not, capable of holding any substance;
3	Section 2 of the Weights and Measures Ordinance (Cap. 68)	“container” (容器) means any form of packaging of goods for supply as a single item, and includes a wrapper or confining band;
4	Section 2 of Dutiable Commodities Ordinance (Cap. 109)	“container” (容器) includes any receptacle or vessel and any wrapper, packing, cover or stopper;
5	Regulation 2 of the Dried Milk Regulations (Cap. 132R)	“container” (容器) includes any form of packaging of dried milk for sale as a single item whether by way of wholly or partly enclosing the dried milk or by way of attaching the dried milk to some other article and in particular includes a wrapper or confining band;
6	Regulation 2 of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W)	“container” (容器) includes every kind of box, bottle, tin, carton, package or wrapping enclosing an article or substance, but does not include an outer cover or wrapping superimposed for the purpose of consignment or delivery;
7	Section 3 of Milk Regulation (Cap. 132AQ)	“container” (容器) includes any cover attached to a container;
8	Section 2 of the Preservatives in Food Regulation (Cap. 132BD)	“container” (容器) includes any form of packaging of food for sale as a single item, whether by way of wholly or partly enclosing the food or by way of attaching the food to some other article, and in particular includes a wrapper or confining band;

Item	Legal Provision	Definition
9	Section 2 of the Control of Chemicals Ordinance (Cap. 145)	<p>“container” (容器) means-</p> <ul style="list-style-type: none"> (a) any receptacle or thing whatever containing or enclosing any quantity of any controlled chemical; (b) any receptacle or thing whatever containing or enclosing any container or containers referred to in paragraph (a); (c) any receptacle or thing whatever containing or enclosing for keeping or storing or for transporting by sea, air or land, in whatever number or size, any containers referred to in paragraph (a) or (b);
10	Section 2 of Air Pollution Control (Volatile Organic Compounds) Regulation (Cap. 311W)	<p>“container” (容器) means the part or parts of any regulated product that serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances that is solely responsible for accomplishing the purpose for which the regulated product was designed or intended;</p>
11	Section 2 of Dumping at Sea Ordinance (Cap. 466)	<p>“container” (盛器) includes a box, barrel, drum or other receptacle;</p>
12	Section 2 of Hazardous Chemicals Control Ordinance (Cap. 595)	<p>“container” (容器) includes a packet;</p>

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A BILL To

Amend the Product Eco-responsibility Ordinance to provide for the collection of a recycling levy on the containers of certain products; to amend the Waste Disposal Ordinance to regulate the disposal of such containers; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Ordinance 2015.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for the Environment by notice published in the Gazette.

Part 2

Amendments to Product Eco-responsibility Ordinance

2. Product Eco-responsibility Ordinance amended

The Product Eco-responsibility Ordinance (Cap. 603) is amended as set out in sections ~~34~~ to 8.

~~3. Section 2 amended (purposes of this Ordinance)~~

~~Section 2(2)(c), after “fee”~~

Add

~~“or levy”.~~

4. Section 3 amended (interpretation)

Section 3(1)—

Add in alphabetical order

“regulated article (受規管物品) means an article constituted by—

- (a) a product specified in column 2 of Part 2 of Schedule ~~68~~; and
- (b) a container that is—
 - (i) specified in column 3 of that Part opposite to the product and containing that product; and
 - (ii) airtight and sealed by machine or with the aid of a tool;”.

5. Section 4 amended (prescribed products to which Part 2 applies)

Section 4, ~~after “bags”~~

Add

~~“and regulated articles”.~~

Repeal

~~“and regulated electrical equipment”~~

Substitute

“, regulated electrical equipment and regulated articles”.

6. Section 5 amended (general provisions as to regulations made under this Ordinance)

Section 5(1), ~~after “29”~~—

Add

~~“or 39”.~~

Repeal

~~“or 44”~~

Substitute

“, 44 or 55”.

7. Part 45 added

After Part ~~34~~—

Add

“Part 45

Regulated Articles

Division 1—Interpretation

3147. Interpretation of Part 45

In this Part—

consume (耗用), in relation to a regulated article, means—

- (a) ~~use the product constituting part of~~ open the container that constitutes the article for the first time after the container is sealed; or

- (b) abandon the article;

container recycling levy (容器循環再造徵費) means the levy prescribed for this Part by the Regulated Articles Regulation;

distribute (分發), in relation to a regulated article, means—

- (a) sell the article;
- (b) exchange or dispose of the article for consideration; or
- (c) give the article to another person as a prize or gift; but does not include any such act done with a view that the article is to be exported in the course of business;

registered supplier (登記供應商) means a supplier who is registered under section ~~3349~~;

Regulated Articles Regulation (《受規管物品規例》) means regulations made under section ~~3955~~;

return (申報) means a return submitted under section ~~3652~~;

supplier (供應商), in relation to a regulated article, means—

- (a) a person who, in the course of the person's business of manufacturing the article, undertakes in Hong Kong the process of sealing the container constituting part of the article; or
- (b) a person who, in the course of the person's business, ~~causes imports~~ the article ~~to be imported~~ into Hong Kong for distribution, but does not include a person who—
 - (i) does not own the article; and
 - (ii) only provides a service for transporting the article into Hong Kong for another person.

Division 2—Registration of Suppliers

3248. Prohibition of ~~carrying on business of~~ distributing regulated articles without registration

- (1) A supplier commits an offence if, not being registered under section 3349, the supplier ~~carries on a business of distributing~~distributes regulated articles ~~in Hong Kong~~.
- ~~(2) If a supplier imports a regulated article into Hong Kong solely for export, the supplier is not to be regarded as distributing the article in Hong Kong.~~
- (3) A person who is convicted of an offence under subsection (1) is liable to a fine at level 6.

3349. Registration of suppliers

The Director must register a person as a registered supplier if—

- (a) the person applies to be registered as a registered supplier in accordance with the Regulated Articles Regulation; and
- (b) the Director is satisfied that the application complies with this Ordinance.

3450. Cancellation of registration

If the Director is satisfied that a registered supplier ~~is no longer carries on a business mentioned in section 32(1)(a)~~ ~~supplier~~, the Director must cancel the registration of the supplier.

Division 3—Obligations of Registered Suppliers

3551. Registered supplier must pay container recycling levy

- (1) Subject to subsection (2), a registered supplier must pay a container recycling levy to the Director for a regulated article if the supplier—
 - (a) distributes the article ~~in Hong Kong~~; or
 - (b) consumes the article ~~in Hong Kong~~.
- (2) The container recycling levy is payable only once ~~under this section~~ in respect of a regulated article.
- (3) An outstanding amount of container recycling levy payable under this section is recoverable as a civil debt due to the Government.

3652. Registered supplier must submit returns

- (1) A registered supplier must, in accordance with the Regulated Articles Regulation, periodically submit returns to the Director.

- (2) On receiving a return, the Director must—
 - (a) determine the amount of container recycling levy payable under section [3551](#) by the registered supplier; and
 - (b) serve a payment notice on the supplier.
- (3) A registered supplier must, within the prescribed period after the date the payment notice is served, pay to the Director in the prescribed manner the container recycling levy payable under section [3551](#) stated in the payment notice.
- (4) A registered supplier who submits a return in respect of a period in a calendar year must keep the prescribed records and documents relating to the return during the 5 years after that year.
- (5) A person who contravenes subsection (1) commits an offence and is liable—
 - (a) on the first conviction, to a fine at level 6; and
 - (b) on a subsequent conviction, to a fine of \$200,000.
- (6) A person who contravenes subsection (3) commits an offence and is liable—
 - (a) on the first conviction, to a fine at level 6; and
 - (b) on a subsequent conviction, to a fine of \$200,000.
- (7) A person who contravenes subsection (4) commits an offence and is liable to a fine at level 5.
- (8) A payment notice under subsection (2)(b) is regarded as duly served on a registered supplier when it is sent by post to the last address provided by the supplier to the Director.
- (9) In subsections (3) and (4)—

prescribed (訂明) means prescribed by the Regulated Articles Regulation.

[3753](#). Registered supplier must submit annual audit report

- (1) A registered supplier must, in accordance with the Regulated Articles Regulation, submit an audit report to the Director every year in respect of the returns submitted by the supplier.
- (2) The audit report must be prepared by a certified public accountant (practising) as defined by section 2(1) of the Professional Accountants Ordinance (Cap. 50), who must not be an employee of the registered supplier.
- (3) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 5.

[3854](#). Recovering container recycling levy by assessment notice

- (1) This section applies if the supplier of a regulated article (*relevant supplier*)—
 - (a) distributes the article in contravention of section [3248](#)(1); or
 - (b) distributes or consumes the article ~~as a registered supplier,~~ without having paid to the Director the container recycling levy payable under section ~~35~~[51](#) for the article (or any part of the levy).
- (2) For the purposes of subsection (1), entering into an agreement to distribute does not constitute distribution.
- (3) The Director may assess—
 - (a) for the regulated article mentioned in subsection (1)(a), the amount of container recycling levy that would have been payable under section [3551](#) for

- the article if the article had been distributed in compliance with section ~~3248~~(1); or
- (b) for the regulated article mentioned in subsection (1)(b), the amount of container recycling levy payable under section ~~3551~~.
- (4) The Director may serve an assessment notice (***assessment notice***) on the relevant supplier demanding payment of—
- (a) the assessed amount; or
- (b) if the relevant supplier has already paid part of that amount under section ~~3551~~, the outstanding part of that amount.
- (5) The Director may replace an assessment notice with another assessment notice served for that purpose.
- (6) The Director may at any time withdraw an assessment notice by serving a withdrawal notice to that effect.
- (7) An assessment notice served in respect of the container recycling levy payable under section ~~3551~~ for a period must be served within 5 years after the end of that period.
- (8) An assessment notice must state—
- (a) the reasons for serving the notice;
- (b) how the amount of container recycling levy assessed by the Director is calculated;
- (c) when and how the relevant supplier must pay; and
- (d) the right of the relevant supplier to appeal against the notice.

- (9) The relevant supplier must pay the amount demanded under the assessment notice within the period prescribed by the Regulated Articles Regulation.
- (10) A person who contravenes subsection (9) commits an offence and is liable—
- (a) on the first conviction, to a fine at level 6; and
- (b) on a subsequent conviction, to a fine of \$200,000.
- (11) A person who is convicted of an offence under subsection (10) is also liable to pay—
- (a) a surcharge of 5% of the amount of container recycling levy that is outstanding at the expiry of the period mentioned in subsection (9); and
- (b) an additional surcharge of 10% of the ~~total~~ amount of container recycling levy ~~and~~ the surcharge mentioned in paragraph (a) that ~~are~~ outstanding at the expiry of 6 months after the period mentioned in subsection (9).
- (12) An outstanding amount of container recycling levy or surcharges payable under this section is recoverable as a civil debt due to the Government.
- (13) If an appeal is made under Division 5 of Part 2 against an assessment notice, any amount of container recycling levy or surcharges that is outstanding remains payable under this section pending the determination of the appeal unless the Director decides otherwise.
- (14) A notice under this section is regarded as duly served on a relevant supplier when it is sent by post—
- (a) if the relevant supplier is a registered supplier, to the last address provided by the supplier to the Director; or

- (b) in any other case, to the last known address of the supplier.

Division 4—Regulations

3955. Secretary may make regulations for Part 45

- (1) The Secretary may, after consulting the Advisory Council on the Environment, make regulations in respect of one or more of the following matters—
- (a) an application for registration under section 3349 and the determination in relation to the application;
 - (b) the cancellation of registration under section 3450;
 - (c) the container recycling levy for each type of regulated article;
 - (d) the payment of container recycling levy by registered suppliers;
 - (e) the submission of returns by registered suppliers;
 - (f) the information to be contained in the returns;
 - (g) the records and documents to be kept by registered suppliers;
 - (h) the submission of audit reports by registered suppliers;
 - (i) an exemption under section 4056.
- (2) A regulation made under subsection (1) is subject to the approval of the Legislative Council.

Division 5—Supplementary Provisions

4056. Exemptions for registered supplier with container waste reduction plan

- (1) A registered supplier may, in accordance with the Regulated Articles Regulation, apply to the Director for exemption from section 3551, 3652 or 3753 in relation to any type of regulated article.
- (2) The application must be accompanied by—
- (a) an application fee prescribed by the Regulated Articles Regulation; and
 - (b) a container waste reduction plan specifying, in relation to the type of regulated article for which the exemption is sought, the arrangement for the recovery and reuse or recycling of the containers concerned.
- (3) The Director must refuse the application if the Director considers that the container waste reduction plan—
- (a) is impracticable; or
 - (b) cannot ensure the recovery and reuse or recycling of the containers concerned in an environmentally sound manner.
- (4) A registered supplier who is aggrieved by the Director's refusal of the application may lodge an appeal in accordance with section 13.
- (5) The Director may grant the exemption subject to any terms and conditions relating to—
- (a) its duration;

- (b) the implementation of the container waste reduction plan;
- (c) auditing, reporting and record keeping; and
- (d) any other matter the Director considers appropriate.

4157. Secretary may amend Schedule 68

- (1) The Secretary may, after consulting the Advisory Council on the Environment, by notice published in the Gazette, amend Schedule 68.
- (2) A notice made under subsection (1) is subject to the approval of the Legislative Council.”.

8. Schedule 68 added

After Schedule 57—

Add

“**Schedule 68** [ss. 3 & 4157]

Regulated Articles to which this Ordinance Applies

Part 1

Interpretation

1. Interpretation

In this Schedule—

*beverage*¹ (飲料)—

- (a) means every type of drink; and
- (b) includes water.

Part 2

Regulated Articles

Column 1	Column 2	Column 3
Item	Product	Container
1.	Beverage	Glass container, whether in the form of a bottle, jar or otherwise”.

¹ [The definition of “beverage” to be revised pending further discussion in the Bills Committee.](#)

Part 3

Amendments to Waste Disposal Ordinance

9. Waste Disposal Ordinance amended

The Waste Disposal Ordinance (Cap. 354) is amended as set out in sections 10 to 14.

10. Section 2 amended (interpretation)

(1) Section 2(1)—

Repeal the definition of *disposal*

Substitute

“*disposal* (處置)—

(a) in relation to chemical waste and clinical waste, includes treatment, reprocessing and recycling; ~~and~~

(b) in relation to e-waste, includes storage, treatment, reprocessing and recycling, but does not include repair; and

~~(bc)~~ in relation to container waste, includes storage, treatment, reprocessing and recycling, but does not include reuse;”.

(2) Section 2(1), definition of *waste*, after “~~construction e-~~ waste,”—

Add

“container waste;”.

(3) Section 2(1)—

Add in alphabetical order

“*container waste* (容器廢物) means a container (whether damaged or not) that—

- (a) judging by its appearance, is a container specified in column 3 of Part 2 of Schedule 68 to the Product Eco-responsibility Ordinance (Cap. 603); and
- (b) has been abandoned;”.

11. Section 16 amended (prohibition of unauthorized disposal of waste)

- (1) After section 16(2)(e) —

Add

- “(e) the treatment, reprocessing or recycling of container waste on land or premises with a waste disposal facility that is capable of treating, reprocessing or recycling not more than one tonne of container waste per day;
- (e) the storage of container waste the total volume of which does not exceed 50 m³ (measured by the maximum width by the maximum height by the maximum length);
- (e) the storage of container waste on premises located inside a multi-storey building;”.

- (2) After section 16(2B) —

Add

- “(2A) Despite subsection (2)(e), (e) and (e), a person may apply to the Director for a licence to use any land or premises for the disposal of container waste.
- (2B) The Secretary may, after consulting the Advisory Council on the Environment and subject to the approval of the Legislative Council, by notice published in the Gazette, amend—

- (a) subsection (2)(e) by varying the weight mentioned in that subsection; or
- (b) subsection (2)(e) by varying the total volume mentioned in that subsection.”.

12. Section 20A amended (permit required for the import of waste into Hong Kong)

~~(1) Section 20A(1)(a) —~~

Repeal

“; or”

Substitute a semicolon.

- (2) Section 20A(1)(b) —

Repeal

“Sixth Schedule; or”

Substitute

“Sixth Schedule; or”.

~~(2A) Section 20A(1)(c) —~~

Repeal

“(b).”

Substitute

“(b); or”.

- (3) After section 20A(1)(b) —

Add

“(e) any container waste that does not fall within the description of paragraph (a) or (b).”.

13. **Section 20B amended (permit required for the export of waste from Hong Kong)**

~~(1) Section 20B(1)(a)—~~

Repeal

~~“; or”~~

~~Substitute a semicolon.~~

(2) Section 20B(1)(b)—

Repeal

~~“Sixth Schedule; or”~~

Substitute

~~“Sixth Schedule; or”.~~

~~(2A) Section 20B(1)(c)—~~

Repeal

~~“(b).”~~

Substitute

~~“(b); or”.~~

(3) After section 20B(1)(~~bc~~)—

Add

“(ed) any container waste that does not fall within the description of paragraph (a) or (b).”

14. **Section 21A substituted**

Section 21A—

Repeal the section

Substitute

“21A. **Circumstances under which waste disposal licence for chemical waste, clinical waste, e-waste or container waste is to be granted**

Without limiting section 21(4), if a person applies for a waste disposal licence in respect of any land or premises, the licensing authority must not grant the licence in respect of chemical waste, clinical waste, e-waste or container waste under that section unless the licensing authority is satisfied that the land or premises have a waste disposal facility that—

- (a) has the capacity to dispose of such minimum quantity of chemical waste, clinical waste, e-waste or container waste (as the case requires) and within such period as may be prescribed; or
- (b) is capable of disposing of chemical waste, clinical waste, e-waste or container waste (as the case requires) in such other manner as may be prescribed.”

Explanatory Memorandum

This Bill seeks to introduce a recycling levy on the suppliers of certain articles and to regulate the disposal of container waste. The Bill contains 3 Parts.

Part 1—Preliminary

2. Clause 1 sets out the short title and provides for commencement.

Part 2—Amendments to Product Eco-responsibility Ordinance (Cap. 603) (Cap. 603)

3. Clause 4 introduces the definition of *regulated article*.
4. Clauses 3, 5 and 6 contain related amendments to Cap. 603.
5. Clause 7 adds a new Part 4 to Cap. 603 for implementing the recycling levy. That Part consists of 5 Divisions.
6. Division 1 adds definitions for the new Part 4.
7. Division 2 provides for the registration of suppliers of regulated articles. Under the new section 32, a person who, without registration, carries on a business of distributing regulated articles in Hong Kong commits an offence.
8. Division 3 provides for the obligations of registered suppliers. The new sections 35, 36 and 37 mainly require a registered supplier distributing regulated articles to pay container recycling levies for the articles and submit returns and an annual audit report to the Director of Environmental Protection (*Director*).
9. Division 4 empowers the Secretary for the Environment to make regulations for the new Part 4.
10. Division 5 contains supplementary provisions—

- (a) The new section 40 allows a registered supplier to be exempted from paying the container recycling levy and other obligations on application to the Director.
- (b) Clause 8 adds Schedule 6 to Cap. 603 to further define the regulated articles to which Cap. 603 applies.

Part 3—Amendments to Waste Disposal Ordinance (Cap. 354) (Cap. 354)

11. Clause 10 gives the definitions of *container waste* and *disposal* to Cap. 354.
12. Clause 11 amends section 16 of Cap. 354 to control the unauthorized disposal of container waste.
13. Clauses 12 and 13 introduce requirements for a permit for importing container waste into, and exporting container waste out of, Hong Kong.
14. Clause 14 substitutes section 21A of Cap. 354 to provide for the circumstances under which a waste disposal licence for container waste is to be granted.