

## **LEGISLATIVE COUNCIL BRIEF**

Product Eco-responsibility Ordinance  
(Chapter 603)

Waste Disposal Ordinance  
(Chapter 354)

### **PROMOTION OF RECYCLING AND PROPER DISPOSAL (ELECTRICAL EQUIPMENT AND ELECTRONIC EQUIPMENT) (AMENDMENT) BILL 2015**

#### **INTRODUCTION**

A At the meeting of the Executive Council on 10 February 2015, the Council ADVISED and the Chief Executive ORDERED that the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 (“the Bill”), at Annex A, should be introduced into the Legislative Council (“LegCo”) to implement the new producer responsibility scheme (“PRS”) for the proper management of waste electrical and electronic equipment (“WEEE”) generated in Hong Kong.

#### **JUSTIFICATIONS**

2. About 70 000 tonnes of WEEE are generated in Hong Kong annually, most of which are exported for reuse or recovery of valuable materials. The reliance on export however may not be sustainable in the long run because demand for second-hand products in markets outside Hong Kong will decline over time with progressive economic development and tightening of import control over WEEE in the developing countries.

3. As committed under *Hong Kong: Blueprint for Sustainable Use of Resources 2013-2022* issued in May 2013, we will progressively implement mandatory PRSs based on the “polluter pays” principle. Further to the full implementation of plastic shopping bag charging which will take effect from 1 April 2015, the mandatory PRS on WEEE is our next target. In the public consultation of 2010, we obtained general community support to introduce legislation for the proper

management of WEEE through a mandatory PRS. Since then, we have been preparing the necessary legislative proposals for the regulatory framework. In parallel, we have been gaining practical experience through voluntary recycling programmes. For instance, through the funding support of the Environment and Conservation Fund (“ECF”), St. James’ Settlement is operating a non-profit WEEE recycling programme, namely WEEE GO GREEN<sup>1</sup>. We have obtained funding support from the LegCo for the development of a WEEE treatment and recycling facility (“WEEETRF”) which is an essential infrastructure for the launch of the mandatory PRS on WEEE.

## **Features of the Mandatory PRS**

### The Statutory Regulatory Framework

4. The Product Eco-responsibility Ordinance (Cap. 603) (“PERO”) and the Waste Disposal Ordinance (Cap. 354) (“WDO”) will be amended to provide for the statutory regulatory framework for the mandatory PRS on WEEE as follows<sup>2</sup> –

#### *Scope of Regulated Electrical Equipment*

5. We **propose** that the mandatory PRS regulate five types of products, namely (i) washing machines, (ii) refrigerators, (iii) air conditioners, (iv) television sets and (v) computer products viz. computers (i.e. desktops, laptops and tablets), printers, scanners and monitors (collectively as “regulated electrical equipment”). These five types of regulated electrical equipment account for about 85% of WEEE generated locally. The rest is largely consumer electronics which are often marketable in the second-hand market, or other miscellaneous household appliances.

#### *Proper Treatment of Regulated Electrical Equipment*

6. We **propose** to apply the licensing control under section 16 of the WDO to the disposal of the regulated electrical equipment that have become waste (“regulated e-waste”) where “disposal”, in relation to

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<sup>1</sup> Under the WEEE GO GREEN programme, used electrical and electronic equipment is collected. Qualified and registered technicians will inspect, repair and test the equipment. Functioning units that meet the required safety standards are donated to the needy or put up for charitable sale. Units that are beyond repair are dismantled and recycled.

<sup>2</sup> Subject to the enactment of the Bill by the LegCo, we will further introduce the necessary subsidiary legislation to provide for the operational details of the mandatory PRS and prescribe the recycling fee to be imposed. The regulation will be made by the Secretary for the Environment after consultation with the Advisory Council on the Environment (“ACE”).

e-waste, includes storage, treatment, reprocessing and recycling. In general, proper treatment, reprocessing and recycling of WEEE involves various dismantling, detoxification and recovery processes. Under the proposed licensing control, a waste disposal licence will only be issued when the operations (including dismantling and detoxification) can demonstrably be conducted in environmentally sound procedures to turn regulated e-waste into reusable materials. The proposed WEEETRF and other private recyclers undertaking recycling of regulated e-waste will have to obtain a waste disposal licence.

7. The proposed licensing requirement seeks to enhance the control on the disposal of regulated e-waste. Yet some practitioners in the recycling industry may undertake part of the treatment process, for example simple dismantling of regulated e-waste for logistic handling. Such process if conducted on a small scale does not cause adverse environmental impacts. In order to avoid undue impact on their operations, which facilitate the collection of regulated e-waste for full treatment by licensed recyclers, we **propose** that disposal of regulated e-waste on land or in premises with an area of not more than 100 m<sup>2</sup> will be eligible for exclusion.

8. For the storage of regulated e-waste, the proposed licensing control under the WDO is expected to significantly improve the environmental performance of WEEE storage sites. According to information available to the Environmental Protection Department ("EPD"), there are about 100 temporary open storage areas in the rural New Territories being used to store WEEE pending shipment outside Hong Kong. Many sites do not have proper shelter and some are not paved. Such storage is usually not properly organised and may cause eyesores and fire hazards. In addition, exposure of regulated e-waste to the environment may result in other environmental problems such as land contamination from the leaching of heavy metals. We **propose** that in future, a storage site of regulated e-waste will have to first obtain a licence and for that purpose have to satisfy certain housekeeping requirements pertinent to the safety and environmental conditions at the site concerned. For example, there should be a roofed structure and paved areas, a maximum stack height, fire prevention and security measures as well as record-keeping arrangements. We also **propose** that certain exclusions apply –

- (a) *storage in premises of multi-storey buildings*, because these are already proper storage locations where the relevant hardware requirements intended to be imposed as licensing conditions should have been met;
- (b) *small quantity of stockpiling*, as defined to be (we **propose**) a load of regulated e-waste with a total volume of not more

than 50 m<sup>3</sup>. As a rough indication, that is the approximate quantity of e-waste usually stored in a 40-foot cargo container.

### *Efficient Collection of Regulated Electrical Equipment*

9. We **propose** that sellers of regulated electrical equipment<sup>3</sup> be required under the PERO to arrange for removal services. More specifically, a seller must have a removal service plan endorsed by the Director of Environmental Protection (“DEP”) under which for every piece of new regulated electrical equipment purchased by a consumer, an equivalent old product can be removed from a premises designated by the consumer for proper disposal at no extra charge to the consumer<sup>4</sup>. While the sellers do not have to provide the collection and treatment services direct, each seller must in the removal service plan specify collection and recycling services provider(s) (may or may not be the future WEEETRF operator) and make necessary arrangements for them to provide the relevant services. For transparency, the sellers will be required to provide relevant information to consumers about the service. They should also liaise for the collection schedule and keep relevant records. Suitable operational criteria may be prescribed in future legal provisions on removal services for broad consistency.

10. Hong Kong is a trading hub and may handle international trading of regulated e-waste either as second-hand goods or waste. To further ensure that any regulated e-waste traded through Hong Kong will not increase our waste burden or cause environmental hazards in other jurisdictions, we **propose** to impose permit control under the WDO such that the import and export of regulated e-waste will require a permit. With the enhanced export control, no regulated e-waste can be exported unless, among other things, the competent authority of the state of import and of each state of transit have consented to the import or transit of such regulated e-waste, and it can be demonstrated as genuinely reusable second-hand products or requiring treatment overseas through sophisticated processes not otherwise available in Hong Kong. For imports, we will grant the required permit only if there is a licensed local recycler undertaking the proper treatment of the relevant shipments. The enhanced import control will guard against international dumping and prevent regulated e-waste intended for re-export ending up in Hong Kong.

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<sup>3</sup> Including online business in Hong Kong.

<sup>4</sup> For the avoidance of misunderstanding, the availability of removal service does not imply that a consumer must use such service. He or she has a choice to keep the old product or to make separate disposal arrangement at his or her own cost.

### *Landfill Disposal Ban*

11. As the mandatory PRS will have put in place a proper recycling outlet, we **propose** that regulated e-waste be banned from disposal at the designated waste disposal facilities. This will have the effect of enforcing the diversion of regulated e-waste from the waste stream to proper recycling facilities, including notably the WEEETRF. While the mandatory PRS will only apply to specific types of regulated e-waste, we will continue to support the proper recycling of non-regulated e-waste, say, through the ECF-funded voluntary programmes. We will also continue to enhance our publicity and public education on 3R (i.e. Reduce, Reuse and Recycle), educating the public not to dispose of any WEEE as ordinary trash.

### *Charging of Recycling Fee*

12. In line with the “polluter pays” principle, recycling fees will be imposed to recover the full costs of the mandatory PRS on WEEE. We will prescribe the specific recycling fees to be determined at full cost recovery basis taking into account the development and operation costs for the WEEETRF after awarding the contract. We will submit the proposal as subsidiary legislation to the LegCo for approval in due course.

13. We **propose** that the recycling fees be collected from suppliers of regulated electrical equipment who may in turn recover such fees wholly or partially from other stakeholders along the supply chain. The fee collection mechanism is outlined as follows –

- (a) *Registration of Suppliers:* Manufacturers and importers<sup>5</sup> who distribute regulated electrical equipment to the local market will have to be registered as a “registered supplier”.
- (b) *Submission and Auditing of Periodic Returns:* A registered supplier will have to submit to the DEP periodic returns, setting out information that is necessary for the computation of the recycling fees payable, which will be set at the full-cost recovery levels and will be prescribed by regulation upon enactment of the Bill by the LegCo. The registered supplier will also have to arrange annual audit on the periodic returns to ensure factual accuracy and keep records to facilitate future inspection. The detailed reporting requirements will also be prescribed by

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<sup>5</sup> Including authorised dealers and parallel importers.

regulation.

- (c) *Payment of the Recycling Fees:* Within a specified period of time after receiving a payment notice from the Government, a registered supplier will have to pay the recycling fees to the Government on the basis of the information contained in the periodic returns. We will only collect the recycling fees for regulated electrical equipment that is “used”, or “distributed” to the Hong Kong market, by which we will exclude (i) exports of locally manufactured regulated electrical equipment and (ii) re-exports of imported regulated electrical equipment which will ultimately be used outside Hong Kong.
- (d) *Provision of Recycling Labels:* In order to facilitate identification of regulated electrical equipment which is covered under the mandatory PRS with the recycling fees paid or to be paid by the relevant registered supplier, a registered supplier and a seller must, for each item of regulated electrical equipment distributed, provide a recycling label of the appropriate type as will be specified by the DEP.

#### The WEEETRF and its Operator

14. Given that proper treatment of WEEE is capital intensive, the current treatment capacity in Hong Kong is well below what is needed for a territory-wide mandatory PRS. In view of the market situation, we have decided that the Government should develop the WEEETRF through a Design-Build-and-Operate (“DBO”) contractual arrangement at a three-hectare reserved site at the EcoPark. This is supported by the LegCo and funding for the WEEETRF project was approved by the LegCo Finance Committee (“FC”) on 27 February 2015.

15. We will complete the open tender procedures as soon as practicable and accordingly award the DBO contract to the successful bidder who will be the WEEETRF operator responsible for designing, building and operating the facility. The WEEETRF operator must obtain a waste disposal licence under the WDO for the disposal of regulated e-waste. Part and parcel of its functions, the WEEETRF operator must also proactively source and collect e-waste to ensure a ready supply of regulated e-waste for treatment at the WEEETRF. Upon request by sellers of regulated electrical equipment, the WEEETRF operator will also provide removal services to collect old equipment from consumers’ premises. With a design capacity of about 30 000 tonnes per annum, the WEEETRF will not crowd out existing WEEE recyclers. Rather, if need be, there is flexibility for the treatment capacity to be increased to 57 000 tonnes annually by

arranging an additional shift in the operation of the facility.

## **OTHER OPTIONS**

16. There is no alternative other than introducing legislation to establish a mandatory PRS as proposed that may put in place a territory-wide local solution for the proper management of WEEE. For instance, with the funding support from the ECF at about \$10 million for three years, the WEEE GO GREEN project referred to in paragraph 3 is able to handle 240 tonnes of WEEE annually.

## **THE BILL**

17. The main provisions are –

- (a) **Clauses 3 to 9** put in place necessary provisions in the PERO including –
  - (i) Part 4, Division 2 (i.e. sections 32 to 34) that provides for the registration of suppliers of regulated electrical equipment;
  - (ii) Part 4, Division 3 (i.e. sections 35 to 40) that provides for the obligations of registered suppliers and sellers;
  - (iii) Part 4, Division 4 (i.e. sections 41 to 43) that provides for the arrangement of removal services by sellers;
  - (iv) Schedule 6 that defines regulated electrical equipment;
- (b) **Clauses 11 to 18** amend the WDO to put in place the licensing control for the disposal of regulated e-waste and the permit control for import and export of regulated e-waste; and
- (c) **Clause 23** amends the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg. L) for banning the disposal of regulated e-waste in the landfills.

B

The existing provisions being amended are at Annex B.

## **LEGISLATIVE TIMETABLE**

18. The legislative timetable of the Bill will be –

Publication in the Gazette

13 March 2015

First Reading and  
commencement of Second  
Reading debate

18 March 2015

Resumption of Second Reading  
debate, committee stage and  
Third Reading

to be notified

## **IMPLICATIONS OF THE PROPOSAL**

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19. The proposal has environmental, sustainability, economic, financial and civil service implications as set out at Annex C. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no family implications. The Bill will not affect the current binding effects of the PERO, WDO and its subsidiary legislation.

## **PUBLIC CONSULTATION**

20. In 2010, we completed a public consultation exercise during which we briefed the LegCo Panel on Environmental Affairs (“EAP”), the ACE and other stakeholders. The community was generally supportive of introducing legislation for a mandatory PRS on WEEE in Hong Kong. We also received a strong call that the Government needed to demonstrate a firm commitment in kick-starting the PRS through providing assistance in the development of a local treatment facility.

21. We reported the way forward of the proposed PRS to the EAP on 28 November 2011, including our plan to support the development of the WEEETRF. Members generally supported the PRS on WEEE in principle but were concerned about the implementation details of the scheme. We have taken these issues into consideration and provided update of the proposed WEEETRF project and the proposed PRS on WEEE to the EAP on 28 April 2014. The EAP noted the update and in general supported the submission of the funding proposal of the proposed WEEETRF to the Public Works Subcommittee. On 26 January 2015, we further updated the EAP on the progress of the Bill and the feedback received was generally positive. In addition, we have also kept the affected trades and other relevant stakeholders closely engaged in developing the compliance system and will continue to do so as we finalise the operational details for subsidiary legislation and prepare for actual implementation in future.

## **PUBLICITY**

22. A press release will be issued. A spokesperson will be



available to answer public enquiries. More detailed publicity and public education will be arranged later when we move onto the implementation phase.

### **ENQUIRIES**

23. For enquiries on this brief, please contact Miss Joanna TSUI, Administrative Officer (Waste Management Policy Division) at 3509 7648 or email to [joannatsui@epd.gov.hk](mailto:joannatsui@epd.gov.hk).

**Environment Bureau / Environmental Protection Department**  
**March 2015**

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

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# A BILL

## To

Amend the Product Eco-responsibility Ordinance and the Waste Disposal Ordinance to provide for a scheme for the recycling and proper disposal of several types of electrical equipment and electronic equipment; and to make minor technical amendments to related legislation.

Enacted by the Legislative Council.

### Part 1

#### Preliminary

- Short title and commencement**
  - This Ordinance may be cited as the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2015.
  - 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 3 to 9.

#### 3. Section 3 amended (interpretation)

Section 3(1)—

##### Add in alphabetical order

“*regulated electrical equipment* (受管制電器) means electrical equipment or electronic equipment that—

- (a) is set out in column 2 of Schedule 6 and is defined in column 3 of that Schedule; and
- (b) has not been used by any consumer as defined by section 31,

but does not include e-waste as defined by section 2(1) of the Waste Disposal Ordinance (Cap. 354);”.

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

Section 4, after “bags”—

##### Add

“and regulated electrical equipment”.

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

- (1) Section 5(1), after “29”—

##### Add

“or 44”.

- (2) After section 5(2)(f)—

##### Add

“(fa) specify an appealable matter mentioned in section 13;”.

#### 6. Section 7 amended (powers to obtain information, enter places for routine inspection, etc.)

Section 7(2)—

##### Repeal

“information relating to any levy, charge or fee imposed under this Ordinance that is in the possession”

##### Substitute

“any information that is in the possession or under the control”.

#### 7. Section 13 amended (appeals)

Section 13(2), definition of *appealable matter*—

##### Repeal

everything after “that is”

##### Substitute

“specified in this Ordinance as a matter on which an appeal may be made under this section.”.

#### 8. Part 4 added

After Part 3—

##### Add

## “Part 4

### Regulated Electrical Equipment

#### Division 1—Interpretation

##### 31. Interpretation of Part 4

In this Part—

**consumer** (消費者) means a person who acquires any regulated electrical equipment otherwise than for selling it in the course of business;

**distribute** (分發), in relation to any regulated electrical equipment, means—

- (a) sell or lease the equipment;
- (b) exchange or dispose of the equipment for consideration;
- (c) transmit or deliver the equipment for any of the following activities—
  - (i) selling;
  - (ii) leasing;
  - (iii) an exchange or disposal for consideration; or
- (d) give the equipment to another person as a prize or gift for business purposes;

**recycling fee** (循環再造費) means the fees prescribed for the purposes of this Part by the REE Regulation;

**recycling label** (循環再造標籤) means a label provided under section 36(1) or (3);

**REE Regulation** (《受管制電器規例》) means regulations made under section 44;

**registered supplier** (登記供應商) means a supplier who is registered under section 33;

**removal service plan** (除舊服務方案) means a plan endorsed under section 41;

**residential property** (住宅物業) means any real property constituting a separate unit used, or intended to be used, solely or principally for human habitation;

**return** (申報) means a return submitted under section 38;

**seller** (銷售商) means a person who carries on a business of distributing regulated electrical equipment to consumers;

**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 causes to be imported into Hong Kong regulated electrical equipment for distribution in the course of the person’s business, 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;

**use** (使用), in relation to any regulated electrical equipment, includes—

- (a) exhibit the equipment for business purposes; and
- (b) give the equipment to another person as a prize or gift otherwise than for business purposes.

## **Division 2—Registration of Suppliers**

### **32. Prohibition of carrying on business of distributing regulated electrical equipment without registration**

- (1) A supplier commits an offence if, not being registered under section 33, the supplier carries on a business of distributing regulated electrical equipment for further distribution in Hong Kong.
- (2) A person who is convicted of an offence under subsection (1) is liable to a fine at level 6.

### **33. Registration of suppliers**

If—

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

the Director may register the person as a registered supplier.

### **34. Cancellation of registration**

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

## **Division 3—Obligations of Registered Suppliers and Sellers**

### **35. Recycling label and receipt must be provided when distributing regulated electrical equipment**

- (1) If a registered supplier distributes to a person any regulated electrical equipment mentioned in section 37(1)(a) for further distribution in Hong Kong to a consumer, the supplier must, in accordance with the REE Regulation, provide to the person a recycling label that is appropriate for the equipment.
- (2) If a seller distributes any regulated electrical equipment to a consumer, the seller must, in accordance with the REE Regulation, provide to the consumer—
  - (a) a recycling label that is appropriate for the equipment; and
  - (b) a receipt with the wording prescribed by the Regulation.
- (3) For the purposes of subsection (1) or (2), entering into an agreement to distribute does not constitute distribution.
- (4) For the purposes of subsection (2), providing regulated electrical equipment to an owner or tenant of a residential property under an agreement for sale and purchase, tenancy agreement, or renovation agreement, for the property without charging specifically for the equipment does not constitute distributing the equipment.
- (5) A person who contravenes subsection (1) or (2) commits an offence and is liable to a fine at level 5.

(6) In subsection (4)—

*tenant* (租客) includes a person who occupies a residential property under a licence, and *tenancy agreement* (租賃協議) is to be construed accordingly.

### 36. Director must provide recycling labels

- (1) If a registered supplier applies to the Director in a form specified by the Director for recycling labels of a particular class, the Director must, subject to subsection (2), provide those labels to the supplier.
- (2) If the Director considers that the number of the recycling labels applied for is, having regard to the registered supplier's state of business, more than reasonably necessary for complying with section 35, the Director may refuse the application.
- (3) If a person—
  - (a) requests to be provided with recycling labels of a particular class at a location specified by the Director; and
  - (b) pays to the Director a recycling fee that is appropriate for the labels,the Director must, subject to subsection (4), provide those labels to the person.
- (4) The Director may set a limit on the number of recycling labels that may be provided to a person under subsection (3) for each request.

### 37. Registered supplier must pay recycling fee

- (1) Subject to subsection (2), a registered supplier must pay to the Director a recycling fee 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 caused to be imported into Hong Kong by the supplier for distribution in the course of the supplier's business, but is not imported into Hong Kong during the course of a service provided by the supplier for transporting articles into Hong Kong for another person; and
  - (b) the supplier—
    - (i) distributes the equipment to a consumer;
    - (ii) distributes the equipment for further distribution in Hong Kong to a consumer; or
    - (iii) uses the equipment for the first time.
- (2) The recycling fee is payable only once in respect of any regulated electrical equipment.
- (3) An outstanding amount of recycling fee payable under this section is recoverable as a civil debt due to the Government.

### 38. Registered supplier must submit returns

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



- (2) On receiving a return, the Director must—
  - (a) determine the amount of recycling fee payable under section 37 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 recycling fee payable under section 37 stated in the payment notice.
- (4) If a registered supplier submits a return in respect of a period in a calendar year, the supplier 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) or (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.
- (6) A person who contravenes subsection (4) commits an offence and is liable to a fine at level 5.
- (7) 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.
- (8) In subsections (3) and (4)—

*prescribed* (訂明) means prescribed by the REE Regulation.

### 39. Registered supplier must submit annual audit report

- (1) A registered supplier must, in accordance with the REE 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.

### 40. Recovering recycling fees by assessment notice

- (1) This section applies if a person (*relevant person*)—
  - (a) distributes regulated electrical equipment in contravention of section 32(1); or
  - (b) distributes regulated electrical equipment in the course of the person's business as a registered supplier, without having paid the Director the recycling fee payable under section 37 for the equipment (or any part of the fee).
- (2) For the purposes of subsection (1), entering into an agreement to distribute does not constitute distribution.
- (3) The Director may assess—
  - (a) for regulated electrical equipment mentioned in subsection (1)(a), the amount of recycling fee that would have been payable under section 37 for any regulated electrical equipment if the equipment was distributed in compliance with section 32(1); or
  - (b) for regulated electrical equipment mentioned in subsection (1)(b), the amount of recycling fee payable under section 37.
- (4) The Director may serve an assessment notice (*assessment notice*) on the relevant person demanding payment of—

- (a) the assessed amount; or
  - (b) if the relevant person has already paid part of that amount under section 37, 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 recycling fee payable under section 37 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 recycling fee assessed by the Director is calculated;
  - (c) when and how the relevant person must pay; and
  - (d) the right of the relevant person to appeal against the notice.
- (9) The relevant person must pay the amount of recycling fee demanded under an assessment notice within the period prescribed by the REE 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 recycling fee 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 recycling fee 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 recycling fee 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 recycling fee 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 person when it is sent by post—
  - (a) if the relevant person is a registered supplier, to the last address provided by the person to the Director; or
  - (b) if the relevant person is not a registered supplier, to the last known address of the person.

#### **Division 4—Seller to Arrange for Removal Service**

##### **41. Seller must have endorsed removal service plan**

- (1) A seller must not distribute regulated electrical equipment to a consumer in the absence of a removal service plan that has been endorsed by the Director.

- (2) Without limiting any other ground on which the Director may refuse to endorse a removal service plan, the Director must not endorse a plan unless the Director is satisfied that the plan meets the requirements specified in subsection (3).
- (3) The requirements are—
  - (a) a collector undertakes to the seller in writing to provide an electrical equipment or electronic equipment removal service for distributing regulated electrical equipment by the seller to a consumer;
  - (b) a recycler undertakes to the seller in writing to provide a treatment, reprocessing or recycling service for the electrical equipment and electronic equipment removed by the collector; and
  - (c) the applicable requirements in the REE Regulation have been complied with.
- (4) The collector mentioned in subsection (3)(a) must hold a business registration certificate issued under section 6 of the Business Registration Ordinance (Cap. 310).
- (5) The recycler mentioned in subsection (3)(b) must hold a waste disposal licence within the meaning of the Waste Disposal Ordinance (Cap. 354) that authorizes the person to treat, reprocess or recycle e-waste within the meaning of that Ordinance.
- (6) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 6.

#### 42. Seller must arrange for removal service

- (1) In this section—

**removal terms** (除舊條款) means the terms—

- (a) agreed between a consumer and a seller who distributes an item of regulated electrical equipment to the consumer; and
  - (b) the purpose of which is to provide for the removal, in accordance with subsection (2), of electrical equipment or electronic equipment of the same class as that item of equipment.
- (2) If—
  - (a) a seller distributes an item of regulated electrical equipment (**former**) to a consumer;
  - (b) the consumer requests, in accordance with the removal terms and any applicable requirements in the REE Regulation, the seller to remove another item of electrical equipment or electronic equipment (**latter**); and
  - (c) the former and the latter fall within the descriptions of the same item of electrical equipment or electronic equipment set out in column 2 of Schedule 6,  
  
the seller must arrange for the removal of the latter in accordance with the seller's removal service plan. The seller must not charge the consumer for the arrangement.
- (3) A person who contravenes subsection (2) 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.
- (4) If a seller distributes any regulated electrical equipment to a consumer, the seller must notify the consumer in

writing of the seller's obligation under subsection (2) before entering into the relevant contract of distribution.

(5) If—

- (a) a seller is to distribute any regulated electrical equipment to a consumer; and
- (b) the relevant contract of distribution is to be subject to certain removal terms,

the seller must notify the consumer in writing of the terms before entering into the contract.

(6) A person who contravenes subsection (4) or (5) commits an offence and is liable—

- (a) on the first conviction, to a fine at level 2; and
- (b) on a subsequent conviction, to a fine at level 3.

(7) The removal terms that are applicable to the distribution of regulated electrical equipment to a consumer form part of the terms of the relevant contract of distribution.

(8) The removal terms are void to the extent to which they are inconsistent with the provisions of this Ordinance.

#### **43. Proper disposal of electrical equipment or electronic equipment removed**

(1) If a collector provides an electrical equipment or electronic equipment removal service for a seller in accordance with the seller's removal service plan, the collector must ensure that the equipment—

- (a) is transferred to a recycler specified in the plan within a reasonable time; and
- (b) is accepted by the recycler.

(2) 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.

(3) It is a defence to a charge under subsection (2) for the person charged to prove that the person exercised due diligence to avoid committing the offence.

### **Division 5—Regulations**

#### **44. Secretary may make regulations for Part 4**

(1) The Secretary may, after consulting the Advisory Council on the Environment, make regulations in respect of all or any of the following matters—

- (a) an application for registration under section 33;
- (b) the provision of recycling labels for each class of regulated electrical equipment by registered suppliers and sellers;
- (c) the recycling fee for each class of regulated electrical equipment;
- (d) the payment of recycling fees 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) the prescribed wording for the purposes of section 35(2)(b);
  - (j) the requirements of the removal service plan;
  - (k) the removal service required by section 42.
- (2) A regulation made under subsection (1) is subject to the approval of the Legislative Council.
- (3) 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.

### Division 6—Supplementary Provisions

#### 45. Exemptions

The regulated electrical equipment set out in column 3 of Schedule 7 is exempted from the provisions set out opposite to it in column 2 of that Schedule.

#### 46. Secretary may amend Schedules 6 and 7

- (1) The Secretary may, after consulting the Advisory Council on the Environment, by notice published in the Gazette, amend Schedule 6 or 7.
- (2) A notice made under subsection (1) is subject to the approval of the Legislative Council.”.

#### 9. Schedules 6 and 7 added

After Schedule 5—

**Add**

**“Schedule 6**

[ss. 3, 42 & 46]

### Regulated Electrical Equipment to which this Ordinance Applies

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
1.	Air conditioner	A room air conditioner within the descriptions in Division 1 of Part 2 of Schedule 1 to the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598).
2.	Refrigerator	A refrigerating appliance within the descriptions in Division 2 of Part 2 of Schedule 1 to the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598).
3.	Washing machine	A washing machine within the descriptions in Division 4 of Part 2 of Schedule 1 to the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598).
4.	Television	(1) An electronic apparatus that falls within the following descriptions—  (a) the apparatus comprises a modulator and a

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		display screen that are encased in a single casing;
		(b) the principal function of the apparatus is to receive and display television signals transmitted by an antenna or signal cable;
		(c) the size of the display screen of the apparatus does not exceed 254 cm (100 inches) (measured diagonally); and
		(d) (if the apparatus has any other audio visual device attached to it) the device attached to the apparatus is encased in that casing and, together with other components, is connected with the electricity socket by one power cable.

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		(2) A television that falls within the definition of <b>monitor</b> in item 8 of this Schedule is nevertheless regarded, for the purposes of this Ordinance, as a television.
5.	Computer	(1) An electronic apparatus that is— (a) used for the storage, processing and retrieval of electronic data; and (b) generally called “personal computer”, “PC”, “desktop computer”, “tablet computer”, “laptop computer” or “notebook computer” or by a name with a similar meaning in the course of marketing.
		(2) A portable electronic apparatus that falls within the descriptions in paragraph (1)

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		is nevertheless not regarded, for the purposes of this Ordinance, as a computer, if—
		(a) one of the principal functions of the apparatus is for mobile communication through a cellular radio network;
		(b) the apparatus has the standard voice function of a telephone;
		(c) the apparatus is connected to the public switched telephone network (PSTN); and
		(d) the apparatus is generally called “telephone” or “phone” or by a name with a similar meaning in the course of marketing.
		(3) A computer that falls within

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		the definition of other electrical equipment or electronic equipment in this Schedule is nevertheless regarded, for the purposes of this Ordinance, as a computer.
6.	Printer	(1) An electronic apparatus that falls within the following descriptions—
		(a) the weight of the apparatus does not exceed 30 kg (excluding any consumables, power cable and data cable that are designed to be removable with bare hands); and
		(b) the principal function of the apparatus is to print, by using electronic data from a computer connected to the

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		apparatus, words or images on paper.
		(2) A printer that can be used as a photocopier, facsimile transmitter or scanner is nevertheless regarded, for the purposes of this Ordinance, as a printer.
		(3) A facsimile transmitter that can only print words or images on paper by using electronic data transmitted via a telephone signal network is not regarded, for the purposes of this Ordinance, as a printer.
7.	Scanner	An electronic apparatus that falls within the following descriptions—
		(a) the weight of the apparatus does not exceed 30 kg (excluding any consumables, power

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		cable and data cable that are designed to be removable with bare hands); and
		(b) the principal function of the apparatus is to generate, by an optical scanning of any word or image on a surface placed immediately against a transparent panel of the apparatus, electronic data from which the word or image can be reproduced.
8.	Monitor	An electronic apparatus that falls within the following descriptions—
		(a) the apparatus does not have the function of storing electronic data or computing;
		(b) the principal function of



Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		the apparatus is to generate, by using electronic data from a computer connected to the apparatus, words or images on a display screen by means of cathode-ray tube (CRT), liquid crystal display (LCD), plasma, light emitting diode (LED) or laser technology; and
		(c) the size of the display screen of the apparatus is not smaller than 13.97 cm (5.5 inches) (measured diagonally) but does not exceed 254 cm (100 inches) (measured diagonally).

## Schedule 7 [ss. 45 & 46]

### Regulated Electrical Equipment Exempted from Certain Provisions

Column 1	Column 2	Column 3
Item	Provision	Regulated electrical equipment”.

## Part 3

### Amendments to Waste Disposal Ordinance

#### 10. Waste Disposal Ordinance amended

The Waste Disposal Ordinance (Cap. 354) is amended as set out in sections 11 to 18.

#### 11. 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;”.

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

**Add**

“e-waste,”.

(3) Section 2(1)—

**Add in alphabetical order**

“***e-waste*** (電器廢物) means any electrical equipment or electronic equipment that, judging by its appearance, is an item set out in column 2 of Schedule 6 to the Product

Eco-responsibility Ordinance (Cap. 603) and has been abandoned;”.

#### 12. Section 16 amended (prohibition of unauthorized disposal of waste)

(1) After section 16(2)(e)—

**Add**

- “(ea) the disposal of e-waste that is not chemical waste on land or premises with an area of not more than 100 m<sup>2</sup>;
- (eb) the storage of e-waste with a total volume of not more than 50 m<sup>3</sup> (measured by the maximum width by the maximum height and the maximum length);
- (ec) the storage of e-waste on premises located inside a multi-storey building;”.

(2) After section 16(2)—

**Add**

- “(2A) Despite subsection (2)(ea), (eb) and (ec), a person may apply to the Director for a licence to use any land or premises for the disposal of e-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)(ea) by varying the area mentioned in that subsection; or
  - (b) subsection (2)(eb) by varying the total volume mentioned in that subsection.”.

**13. Section 18 amended (penalties for offences under sections 16, 16A, 16B, 16C and 17 and defences)**

After section 18(2)—

**Add**

- “(3) Subsection (4) applies to a person charged with an offence under section 16 for the storage, treatment, reprocessing or recycling of any e-waste that is not chemical waste.
- (4) It is a 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 Schedule 6 to the Product Eco-responsibility Ordinance (Cap. 603).
- (5) The person is taken to have established a fact that needs to be established for the defence if—
- (a) there is sufficient evidence to raise an issue with respect to the fact; and
  - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

**14. 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,”

**Substitute**

“Sixth Schedule; or”.

- (3) After section 20A(1)(b)—

**Add**

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

**15. 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,”

**Substitute**

“Sixth Schedule; or”.

- (3) After section 20B(1)(b)—

**Add**

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

**16. Section 20G amended (defence of due diligence, etc.)**

After section 20G(3)—

**Add**

- “(4) Subsection (5) applies to a person charged with an offence under section 20E for the import or export of any e-waste that is not chemical waste.
- (5) It is a 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 Schedule 6 to the Product Eco-responsibility Ordinance (Cap. 603).
- (6) The person is taken to have established a fact that needs to be established for the defence if—
- (a) there is sufficient evidence to raise an issue with respect to the fact; and
  - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

**17. Section 21A substituted**

Section 21A—

**Repeal the section**

**Substitute**

**“21A. Circumstances under which waste disposal licence for chemical waste, clinical waste or e-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 or e-waste under that section unless the licensing authority is satisfied that the land or premises has a waste disposal facility that—

- (a) has the capacity to dispose of such minimum quantity of chemical waste, clinical waste or e-

- waste (as the case requires) and within such period as may be prescribed; or
- (b) is capable of disposing of chemical waste, clinical waste or e-waste (as the case requires) in such other manner as may be prescribed.”.

**18. Section 33 amended (regulations)**

- (1) Section 33(6)(b)—

**Repeal**

“or”.

- (2) After section 33(6)(b)—

**Add**

“(ba) the fees for permits, authorizations or licences; or”.

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## Part 4

### Amendments to Waste Disposal (Permits, Authorizations and Licences) (Fees) Regulation

**19. Waste Disposal (Permits, Authorizations and Licences) (Fees) Regulation amended**

The Waste Disposal (Permits, Authorizations and Licences) (Fees) Regulation (Cap. 354 sub. leg. D) is amended as set out in sections 20 and 21.

**20. Section 5 added**

After section 4—

**Add**

**“5. Amendment of Schedule 2**

The Secretary may, by notice published in the Gazette, amend Schedule 2.”.

**21. Schedule 2 amended (fees)**

Schedule 2—

**Repeal**

“[s. 4]”

**Substitute**

“[ss. 4 & 5]”.

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## Part 5

### Amendment to Waste Disposal (Designated Waste Disposal Facility) Regulation

**22. Waste Disposal (Designated Waste Disposal Facility) Regulation amended**

The Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg. L) is amended as set out in section 23.

**23. Section 3AB added**

After section 3A—

**Add**

**“3AB. Designated waste disposal facility must not accept e-waste**

A person must not accept for disposal any e-waste at any designated waste disposal facility.”.

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### Explanatory Memorandum

This Bill seeks to implement a mandatory producer responsibility scheme on certain electrical equipment and electronic equipment. The Bill contains 5 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 3 introduces the definition of *regulated electrical equipment (REE)*.
4. Clauses 4 to 7 contain related technical amendments to Cap. 603.
5. Clause 8 adds a new Part 4 to Cap. 603 for implementing the mandatory producer responsibility scheme. That Part consists of 6 Divisions.
6. Division 1 adds definitions for the new Part 4.
7. Division 2 provides for the registration of suppliers of REE. Under the new section 32, a person who carries on a business of distributing REE for further distribution in Hong Kong without registration commits an offence.
8. Division 3 provides for the obligations of registered suppliers and sellers. The new sections 35, 36, 37, 38 and 39 require a registered supplier distributing REE to provide a recycling label, pay a recycling fee for the REE and submit returns and an audit report to the Director of Environmental Protection (*Director*).
9. Division 4 provides for the arrangement of electrical equipment and electronic equipment removal services by sellers. Under the new section 41, a removal service plan must first be endorsed by the

Director before a seller can distribute the REE to a consumer. The new section 43 requires a collector of REE to ensure that the REE is accepted by a recycler.

10. Division 5 empowers the Secretary for the Environment (*Secretary*) to make regulations for the new Part 4.
11. Division 6 contains supplementary provisions.
12. Clause 9 adds Schedule 6 to Cap. 603 to define the REE to which Cap. 603 applies. Schedule 7 is also added to set out the exempted REE (if any).

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

13. Clause 11 defines the electrical equipment or electronic equipment listed in Schedule 6 to Cap. 603 as *e-waste* under Cap. 354. The definitions of *disposal* and *waste* in Cap. 354 are amended accordingly.
14. Clause 12 amends section 16 of Cap. 354 to control the unauthorized disposal of e-waste.
15. Clause 13 introduces a defence to a charge concerning storage, treatment, reprocessing or recycling of any e-waste that is not chemical waste.
16. Clauses 14 and 15 introduce requirements for a permit for importing e-waste into, and exporting e-waste out of, Hong Kong.
17. Clause 16 introduces a defence to a charge concerning importing e-waste that is not chemical waste into, and exporting such e-waste out of, Hong Kong.
18. Clause 17 substitutes section 21A of Cap. 354 to provide for the circumstances under which a waste disposal licence for e-waste is to be granted.

**Part 4—Amendments to Waste Disposal (Permits, Authorizations and  
Licences) (Fees) Regulation (Cap. 354 sub. leg. D) (*Cap. 354D*)**

19. Part 4 amends Cap. 354D to empower the Secretary to amend the fees in Schedule 2 to Cap. 354D.

**Part 5—Amendment to Waste Disposal (Designated Waste Disposal  
Facility) Regulation (Cap. 354 sub. leg. L) (*Cap. 354L*)**

20. Clause 23 amends Cap. 354L to prohibit the disposal of e-waste at any designated waste disposal facility.

Chapter:	603	PRODUCT ECO-RESPONSIBILITY ORDINANCE	Gazette Number	Version Date
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Section:	3	Interpretation	L.N. 86 of 2009	30/04/2009
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(1) In this Ordinance, unless the context otherwise requires—

“authorized officer” (獲授權人員) means a public officer authorized under section 6;

“Director” (署長) means the Director of Environmental Protection;

“plastic shopping bag” (塑膠購物袋) means a plastic shopping bag to which this Ordinance applies according to section 18;

“prescribed product” (訂明產品) means any product mentioned in section 4;

“product” (產品) includes any article, material and substance;

“Secretary” (局長) means the Secretary for the Environment.

(2) In this Ordinance, unless the context otherwise requires—

(a) a reference to any product includes a reference to any part of the product;

(b) a reference to a function includes a reference to a power and a duty; and

(c) a reference to the performance of a function includes a reference to the exercise of a power and the discharge of a duty.

Chapter:	603	PRODUCT ECO-RESPONSIBILITY ORDINANCE	Gazette Number	Version Date
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Section:	4	Prescribed products to which Part 2 applies	L.N. 86 of 2009	30/04/2009
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This Part applies in relation to plastic shopping bags.

Chapter:	603	PRODUCT ECO-RESPONSIBILITY ORDINANCE	Gazette Number	Version Date
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Section:	5	General provisions as to regulations made under this Ordinance	L.N. 86 of 2009	30/04/2009
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(1) In this section, “regulation” (規例) means any regulation made under section 29.

(2) A regulation may do all or any of the following—

(a) apply generally or be limited in its application by reference to specified exceptions or factors;

(b) make different provisions for different circumstances and provide for a particular case or class of cases;

(c) empower the Secretary or Director to grant exemptions from any requirement, either generally or in a particular case;

(d) provide for the performance by the Director or an authorized officer of any function under the regulation;

(e) authorize any matter or thing to be determined, applied or administered by a specified person or group of persons;

(f) prescribe any matter that by this Ordinance is required or permitted to be prescribed by a regulation;

(g) provide for such incidental, consequential, evidential, transitional, savings and supplemental provisions as are necessary or expedient for giving full effect to the provisions of this Ordinance;

(h) generally provide for the better carrying out of the provisions and purposes of this Ordinance.

(3) A regulation may make it an offence for a person to do or omit to do any specified act and may authorize—

(a) the imposition of a fine, not exceeding \$500000, for such an offence;

(b) if the offence is a continuing one, the imposition of a further fine of \$10000 for each day or part of a day during which the offence has continued; and

(c) the imposition of a sentence of imprisonment for a period of not more than 12 months.



Chapter:	603	PRODUCT ECO-RESPONSIBILITY ORDINANCE	Gazette Number	Version Date
Section:	7	Powers to obtain information, enter places for routine inspection, etc.	L.N. 86 of 2009	30/04/2009

(1) An authorized officer may, in relation to any record or document required to be kept by a person under this Ordinance, do all or any of the following—

- (a) require the person to produce the record or document for inspection;
- (b) require the person to provide all reasonable assistance, information or explanations in connection with the record or document;
- (c) remove and retain the record or document for such period as may be reasonably necessary for further examination or reproduction, or until the relevant proceedings under this Ordinance have been heard and finally determined.

(2) An authorized officer may require a person to provide information relating to any levy or fee imposed under this Ordinance that is in the possession of the person and is reasonably necessary to enable the officer to ascertain whether this Ordinance has been or is being complied with.

(3) For the purpose of ascertaining whether this Ordinance has been or is being complied with, an authorized officer may, at any reasonable time, enter a place to which the public are permitted to have access, and may do all or any of the following—

- (a) observe and inspect any activity, operation, process or procedure involving prescribed products;
- (b) require a person in charge of the place to produce any record or document relating to prescribed products or to any levy or fee imposed under this Ordinance;
- (c) make copies of any record or document produced under paragraph (b);
- (d) subject to subsection (4), take such samples of any products as the officer may reasonably require for the purpose of examination and investigation.

(4) If required by the person having the lawful custody of such products, the authorized officer shall pay for—

- (a) the market price of the samples he proposes to take; or
- (b) if the market price is unknown or not readily ascertainable, a reasonable price of those samples.

(5) For the avoidance of doubt, a person is not liable for breach of any duty of confidentiality arising from the disclosure of any information that he is required to provide under this Ordinance.

(6) An authorized officer must not disclose any record, document or information produced or provided to him under this section unless he is satisfied that it is necessary to make the disclosure for the purposes of any proceedings under this Ordinance.

(7) In this section, a reference to a person includes a reference to anyone acting for or on behalf of the person.

Chapter:	603	PRODUCT ECO-RESPONSIBILITY ORDINANCE	Gazette Number	Version Date
Section:	13	Appeals	L.N. 86 of 2009	30/04/2009

(1) A person who is aggrieved by a decision of a public officer relating to any of the matters specified in subsection (2) may, within 21 days after the date on which the notice about that matter is served on him, appeal to the Appeal Board by giving a notice of appeal to the Director stating the reasons for the appeal.

(2) The following matters are specified for the purposes of subsection (1)—

- (a) rejection of an application for registration or deregistration in respect of a retail outlet under section 19;
- (b) rejection of an application for the exemption of part of the area of a registered retail outlet for the purposes of section 23;
- (c) an assessment notice served under section 26; and
- (d) any matter that is—
  - (i) provided by a regulation made under this Ordinance; and
  - (ii) specified in the regulation as a matter on which an appeal may be made under this section.

Chapter:	354	WASTE DISPOSAL ORDINANCE	Gazette Number	Version Date
Section:	2	Interpretation	L.N. 89 of 2014	14/07/2014

Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) In this Ordinance, unless the context otherwise requires-

"analyst" (化驗師) means the Government Chemist or any person appointed by the Governor under section 23E(5);

(Added 58 of 1987 s. 2)

"animal waste" (動物廢物) means-

- (a) the manure or urine of any animal; or
- (b) any dead animal or any part of any dead animal not fit for, or not intended for, human consumption; or
- (c) any bedding, straw or other waste contaminated by the manure or urine of any animal, (Replaced 58 of 1987 s. 2)

but does not include clinical waste; (Amended 6 of 2006 s. 2)

"authorized officer" (獲授權人員) means a public officer authorized under section 23A; (Added 58 of 1987 s. 2)

"chemical waste" (化學廢物) means any substance, matter or thing defined as chemical waste by regulations made under section 33; (Added 86 of 1991 s. 3)

"clinical waste" (醫療廢物) means waste consisting of any substance, matter or thing belonging to any of the groups specified in Schedule 8 that is generated in connection with-

- (a) a dental, medical, nursing or veterinary practice;
- (b) any other practice, or establishment (howsoever described), that provides medical care and services for the sick, injured, infirm or those who require medical treatment;
- (c) dental, medical, nursing, veterinary, pathological or pharmaceutical research; or
- (d) a-
  - (i) dental;
  - (ii) medical;
  - (iii) veterinary; or
  - (iv) pathological, laboratory practice,

but does not include chemical waste or radioactive waste; (Added 6 of 2006 s. 2)

"Code of Practice" (工作守則) means any Code of Practice prepared or revised by the Secretary under section 35; (Added 58 of 1987 s. 2. Amended L.N. 244 of 1989; 78 of 1999 s. 7)

"collection authority" (廢物收集當局) means-

- (a) in relation to chemical waste and clinical waste, the Director; (Amended 6 of 2006 s. 2)
- (b) in relation to any other waste, means the Director of Food and Environmental Hygiene and the Director; (Replaced 78 of 1999 s. 7. Amended L.N. 183 of 2000)

"construction waste" (建築廢物) means any substance, matter or thing defined as construction waste by regulations made under section 33, but does not include chemical waste; (Added 17 of 2004 s. 2)

"designated waste disposal facility" (指定廢物處置設施) has the same meaning as in section 2 of the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap 354 sub. leg. L); (Added 17 of 2004 s. 2)

"Director" (署長) means the Director of Environmental Protection; (Added L.N. 74 of 1986)

"disposal" (處置) in relation to chemical waste and clinical waste includes treatment, reprocessing or recycling; (Added 86 of 1991 s. 3. Amended 6 of 2006 s. 2)

"enlarged area" (放大區) means those parts of-

- (a) a livestock waste prohibition area;
- (b) a livestock waste control area; or (Amended 28 of 1994 s. 2)
- (c) a livestock waste restriction area, (Added 28 of 1994 s. 2)

specified in the third column of the Third Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental

- Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry, which abut or share a common boundary with one or more livestock waste control areas or one or more livestock waste restriction areas; (Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2)
- "exempt person" (獲豁免的人) means any person or any classes of person specified in the Fourth Schedule; (Added 58 of 1987 s. 2)
- "household waste" (住戶廢物) means waste produced by a household, and of a kind that is ordinarily produced by a dwelling when occupied as such;
- "keep" (飼養) includes breed, house, tend, look after or control and "kept" and "keeping" shall be construed accordingly; (Added 58 of 1987 s. 2)
- "lairage" (圍欄) means that part of a slaughterhouse or abattoir used for the admission or confinement of animals; (Added 58 of 1987 s. 2)
- "livestock" (禽畜) means pigs or poultry; (Added 58 of 1987 s. 2)
- "livestock keeper" (禽畜飼養人) means-
- (a) an owner of livestock; or
  - (b) an owner, lessee or occupier or person responsible for the management of livestock premises; or
  - (c) any person keeping livestock or having the custody or possession of livestock; or
  - (d) any former livestock keeper,
- but does not comprise exclusively any exempt person; (Added 58 of 1987 s. 2)
- "livestock premises" (禽畜飼養場) means-
- (a) any premises, buildings, land or land covered by water owned, leased or occupied by a livestock keeper, his dependants or employees for the purpose of keeping livestock and any dwelling-place and ancillary buildings or structures connected therewith;
  - (b) any other premises in or on which livestock are kept other than any premises comprising any abattoir, slaughter-house, market, fresh provision shop, lairage or hatchery in which poultry of not more than 12 days old are kept; and
  - (c) any former livestock premises; (Added 58 of 1987 s. 2)
- "livestock waste" (禽畜廢物) means, subject to section 2A, animal waste produced by, or connected with, livestock; (Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2)
- "livestock waste control area" (禽畜廢物管制區) means a livestock waste control area specified in the second column of the Second Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry; (Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2)
- "livestock waste prohibition area" (禽畜廢物禁制區) means a livestock waste prohibition area specified in the second column of the First Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry; (Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2)
- "livestock waste restriction area" (禽畜廢物限制區) means a livestock waste restriction area specified in column 2 of the Fifth Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry; (Added 28 of 1994 s. 2)
- "livestock waste treatment plant" (禽畜廢物處理裝置) means a waste treatment plant at which livestock waste is treated by biological, chemical, physical or other means or any combination thereof in accordance with regulations made under section 33; (Added 58 of 1987 s. 2)
- "poultry" (家禽) means chickens, ducks, geese, pigeons and quail; (Added 58 of 1987 s. 2)
- private lot** (私人地段) means a piece or parcel of ground held under a Government lease and identified by a lot number as defined by regulation 2 of the Land Registration Regulations (Cap 128 sub. leg. A); (Added 19 of 2013 s. 3)
- "relevant date" (有關日期) means-
- (a) in the case of a livestock waste prohibition area, the date shown in the third column of the First

Schedule in respect of that area; or

- (b) in the case of a livestock waste control area, the date shown in the third column of the Second Schedule in respect of that area; (Added 58 of 1987 s. 2)

"Secretary" (局長) means the Secretary for the Environment; (Added 78 of 1999 s. 7. Amended L.N. 106 of 2002; L.N. 130 of 2007)

"slaughterhouse" (屠房) and "abattoir" (屠場) has the meaning assigned to it in the Public Health and Municipal Services Ordinance (Cap 132); (Added 58 of 1987 s. 2)

"street waste" (街道廢物) means dust, dirt, rubbish, mud, road scapings or filth, but does not include human excretal matter;

"trade waste" (行業廢物) means waste from any trade, manufacture or business, but does not include animal waste, chemical waste, clinical waste or construction waste; (Replaced 17 of 2004 s. 2. Amended 6 of 2006 s. 2)

"waste" (廢物) means any substance or article which is abandoned and includes animal waste, chemical waste, clinical waste, construction waste, household waste, livestock waste, street waste and trade waste; (Amended 86 of 1991 s. 3; 17 of 2004 s. 2; 6 of 2006 s. 2)

"waste collection licence" (廢物收集牌照) means a licence under section 10;

"waste disposal authority" (廢物處置當局), in respect of all classes of waste, means the Director; (Replaced L.N. 74 of 1986)

"waste disposal licence" (廢物處置牌照) means a licence under section 16;

"waste treatment plant" (廢物處理裝置) means a plant at which waste is treated for the purpose of removing therefrom (wholly or in part) pollutants contained therein. (Added 58 of 1987 s. 2)

(Amended 78 of 1999 s. 7)

(2) For the purposes of this Ordinance any substance or article which is discarded or otherwise dealt with as waste shall be presumed to be waste until the contrary is proved.

Chapter:	354	WASTE DISPOSAL ORDINANCE	Gazette Number	Version Date
Section:	16	Prohibition of unauthorized disposal of waste	L.N. 95 of 2011	01/08/2011

(1) Subject to subsection (2), a person shall not use, or permit to be used, any land or premises for the disposal of waste unless he has a licence from the Director to use the land or premises for that purpose. (Amended L.N. 76 of 1982; L.N. 74 of 1986; 86 of 1991 s. 6)

(2) Subsection (1) shall not apply to the use of land or premises for- (Amended 6 of 2006 s. 6)

- the disposal of household waste from a private dwelling if the disposal takes place within the curtilage of that dwelling;
- the disposal of waste if the land is used for tipping by the Civil Engineering and Development Department or such use is authorized by the Director; (Amended L.N. 76 of 1982; L.N. 127 of 1986; L.N. 364 of 1991; L.N. 104 of 2004)
- the deposit of any inert matter used as landfill (other than any matter to which the Dangerous Goods Ordinance (Cap 295) applies or that is toxic);
- the deposit of any substance (other than chemical waste or clinical waste) which is being used in the course of agricultural or horticultural operations; (Amended 86 of 1991 s. 6; 6 of 2006 s. 6)
- the disposal of chemical waste or clinical waste by a person who is authorized, pursuant to any regulation made under section 33(1)(da), to use the land or premises for that purpose; (Replaced 6 of 2006 s. 6)
- the disposal of such wastes or classes of wastes in such circumstances as may be prescribed. (Added 6 of 2006 s. 6)

(3) Any person who contravenes subsection (1) commits an offence.

(4) Where waste other than chemical waste or clinical waste is disposed of on unleased land, as defined in the Land (Miscellaneous Provisions) Ordinance (Cap 28), pursuant to a licence issued under section 5 of that Ordinance, no licence under subsection (1) shall be required. (Amended 86 of 1991 s. 6; 29 of 1998 s. 68; 6 of 2006 s. 6)



Chapter:	354	WASTE DISPOSAL ORDINANCE	Gazette Number	Version Date
Section:	18	Penalties for offences under sections 16, 16A, 16B, 16C and 17 and defences*	L.N. 89 of 2014	04/08/2014

- (1) Any person who commits an offence under section 16, 16A or 16B is liable- (Amended 19 of 2013 s. 5)
- for the first offence, to a fine of \$200000 and to imprisonment for 6 months;
  - for a second or subsequent offence, to a fine of \$500000 and to imprisonment for 6 months; and
  - in addition, if the offence is a continuing offence to a fine of \$10000 for each day during which it is proved to the satisfaction of the court that the offence has continued. (Amended 28 of 1994 s. 15)
- (1AA) A person who commits an offence under section 16C(6) or (7) is liable to a fine at level 6. (Added 19 of 2013 s. 5)
- (1A) Any person who commits an offence under section 17 is liable-
- for the first offence, to a fine of \$100000;
  - for a second or subsequent offence, to a fine of \$200000 and to imprisonment for 6 months; and
  - in addition, if the offence is a continuing offence to a fine of \$10000 for each day during which it is proved to the satisfaction of the court that the offence has continued. (Added 28 of 1994 s. 15)
- (2) A person does not commit an offence under section 16, 16A, 16B or 17 if he proves that the waste was disposed of in an emergency to avoid danger to the public and as soon as was reasonably practicable he informed the Director thereof in writing. (Amended L.N. 76 of 1982; L.N. 74 of 1986; 28 of 1994 s. 15; 19 of 2013 s.5)

**Note:**

\* (Amended 19 of 2013 s. 5)

Chapter:	354	WASTE DISPOSAL ORDINANCE	Gazette Number	Version Date
Section:	20A	Permit required for the import of waste into Hong Kong	6 of 2006	07/04/2006

- (1) The import into Hong Kong of-
- any waste of a kind specified in the Sixth Schedule, unless the waste is uncontaminated and is imported for the purpose of a reprocessing, recycling or recovery operation or the reuse of the waste; or
  - any waste of a kind specified in the Seventh Schedule, or not specified in the Sixth Schedule, requires a permit issued by the waste disposal authority under this section.
- (2) An application for a permit under this section-
- shall be in the form that the waste disposal authority directs specifying-
    - the reason for the proposed waste import;
    - the name and address of the importer of the waste;
    - the name and address of the waste producer;
    - the name and address of the disposer of the waste;
    - the address of the waste disposal or reuse facility to be used;
    - the name and address of every intended carrier of the waste or his agent;
    - the names of the states of export and transit and their competent authorities;
    - whether the permit is for a single shipment or multiple shipments;
    - the projected date of each shipment and the period of time over which waste is to be imported;
    - the mode of transportation envisaged;
    - a physical description of the waste and its composition and information on any special handling requirements;
    - the type of packaging envisaged;
    - the estimated quantity by weight or volume of waste to be imported;
    - details of the process by which and place at which the waste was or is being generated;
    - a description of the method of disposal or reuse; and (xvi) such other information as the waste disposal authority

- may reasonably require to determine whether or not to issue a permit; and
- (b) shall be accompanied by-
- (i) documents confirming the contractual arrangements, if any, for the disposal or reuse of the waste;
  - (ii) a contingency plan showing the procedures to be followed in case of accident;
  - (iii) documents confirming the existence of the liability insurance and bond or other financial guarantee mentioned in subsection (4)(b); and
  - (iv) the prescribed fee.
- (3) The waste disposal authority may either issue, with or without conditions, or refuse to issue a permit for the import of the waste, and shall notify the applicant of his decision and, in the case of refusal, the reasons for such refusal.
- (4) The waste disposal authority shall not issue a permit under this section for the import of any waste unless he is satisfied-
- (a) that the waste will be managed in Hong Kong in accordance with the laws of Hong Kong and in an environmentally sound manner;
  - (b) that there is in force, or there will be in force at the time of the import of the waste-
    - (i) liability insurance to cover claims arising out of damage to human health, property and the environment which may result from the import operation; and
    - (ii) a bond, or other financial guarantee acceptable to the waste disposal authority, providing for payment to the waste disposal authority of the cost of any seizure or disposal of the waste under section 20F that may occur; (Amended 6 of 2006 s. 8)
  - (c) in the case of waste to be imported other than for the purpose of reuse or a reprocessing, recycling or recovery operation, that-
    - (i) the state of export does not have the facilities, capacity or disposal sites that would allow disposal of the waste in an environmentally sound manner; or
    - (ii) the import of the waste is for a purpose which the waste disposal authority considers necessary or desirable in the interests of the environmentally sound and efficient management of the waste disposal system in Hong Kong; (Amended 6 of 2006 s. 8)
  - (d) in the case of waste to be imported for reuse or for a reprocessing, recycling or recovery operation, that the waste is required as a raw material for such reuse or operation in Hong Kong; and (Amended 6 of 2006 s. 8)
  - (e) in the case of waste of a kind specified in the Seventh Schedule, that the waste is not exported from a state or party that is referred to in Schedule 9. (Added 6 of 2006 s. 8)

(Added 14 of 1995 s. 3)

Chapter:	354	WASTE DISPOSAL ORDINANCE	Gazette Number	Version Date
Section:	20B	Permit required for the export of waste from Hong Kong	6 of 2006	07/04/2006

- (1) The export from Hong Kong of-
- (a) any waste of a kind specified in the Sixth Schedule, unless the waste is uncontaminated and is exported for the purpose of a reprocessing, recycling or recovery operation or the reuse of the waste; or
  - (b) any waste of a kind specified in the Seventh Schedule, or not specified in the Sixth Schedule,
- requires a permit issued by the waste disposal authority under this section.
- (2) An application for a permit under this section-
- (a) shall be in the form that the waste disposal authority directs specifying-
    - (i) the reason for the proposed waste export;
    - (ii) the name and address of the exporter of the waste;
    - (iii) the name and address of the waste producer;
    - (iv) the name and address of the disposer of the waste;
    - (v) the address of the waste disposal or reuse facility to be used;
    - (vi) the name and address of every intended carrier of the waste or his agent;
    - (vii) the names of the states of import and transit and their competent authorities;
    - (viii) whether the permit is for a single shipment or multiple shipments;

- (ix) the projected date of each shipment and the period of time over which waste is to be exported;
- (x) the mode of transportation envisaged;
- (xi) a physical description of the waste and its composition and information on any special handling requirements;
- (xii) the type of packaging envisaged;
- (xiii) the estimated quantity by weight or volume of waste to be exported;
- (xiv) details of the process by which and place at which the waste was or is being generated;
- (xv) a description of the method of disposal or reuse; and (xvi) such other information as the waste disposal authority may reasonably require to determine whether or not to issue a permit; and
- (b) shall be accompanied by-
  - (i) documents confirming the contractual arrangements, if any, for the disposal or reuse of the waste;
  - (ii) documents confirming the existence of the liability insurance and the bond or other financial guarantee mentioned in subsection (4)(b); and
  - (iii) the prescribed fee.

(3) The waste disposal authority may either issue, with or without conditions, or refuse to issue a permit for the export of the waste, and shall notify the applicant of his decision and, in the case of refusal, the reasons for such refusal.

(4) The waste disposal authority shall not issue a permit under this section for the export of any waste unless he is satisfied-

- (a) that the competent authority of the state of import and of each state of transit has consented to the import or transit, as the case may be, of the waste;
- (b) that the competent authority of the state of import and of each state of transit has confirmed that its laws, if any, as regards the existence of-
  - (i) liability insurance to cover claims arising out of damage to human health, property and the environment which may result from the export operation; and
  - (ii) a bond, or other financial guarantee, providing for payment to the competent authority of the state of import and each state of transit of the cost of any seizure or disposal of the waste by such competent authority,
- have been complied with in respect of the proposed export;
- (c) that the waste will be managed or disposed of in an environmentally sound manner;
- (d) that the waste will not be disposed of within the area south of the parallel of 60 degrees south; (Amended 6 of 2006 s. 9)
- (e) in the case of waste to be exported other than for the purpose of a reprocessing, recycling or recovery operation or the reuse of the waste, that-
  - (i) Hong Kong does not have the facilities, capacity or disposal sites that would allow disposal of the waste in an environmentally sound manner; or
  - (ii) the export of the waste is for a purpose which the waste disposal authority considers necessary or desirable in the interests of the environmentally sound and efficient management of the waste disposal system in Hong Kong; and (Amended 6 of 2006 s. 9)
- (f) in the case of waste to be exported for the purpose of a reprocessing, recycling or recovery operation or for reuse, that the waste is required as a raw material for such operation or reuse in the state of import.

(Added 14 of 1995 s. 3)

Chapter:	354	WASTE DISPOSAL ORDINANCE	Gazette Number	Version Date
Section:	20G	Defence of due diligence, etc.	L.N. 29 of 2004	27/02/2004

(1) A person charged with an offence under this Part has a defence if he proves that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) Without limiting the general nature of subsection (1), a person establishes the defence under that subsection if he proves-

- (a) he acted under instructions from his employer; or
- (b) he relied on information supplied by another person without reason to believe that the information was

false or misleading,  
and in either case that he took all steps reasonably open to him to ensure that an offence would not be committed.  
(Amended L.N. 29 of 2004)

(3) If a person wishes to rely on a defence involving an allegation-

- (a) that the commission of the offence was due to an act by or omission of another person (other than acting on the instructions of his employer); or
- (b) that he relied on information supplied by another person,

he is not entitled, without leave of the court, to rely on the defence unless 7 clear days before the hearing, he has served on the prosecutor a notice giving all information he then had that identifies or assists in identifying the other person.

(Added 14 of 1995 s. 3)

Chapter:	354	WASTE DISPOSAL ORDINANCE	Gazette Number	Version Date
Section:	21A	Circumstances under which waste disposal licence for chemical waste is to be granted	L.N. 87 of 2010	19/11/2010

Without prejudice to the generality of section 21(4), the licensing authority shall not grant a waste disposal licence in respect of chemical waste or clinical waste (as the case may be) under that section unless he is satisfied that the land or premises in respect of which the licence is sought has a waste disposal facility which- (Amended 6 of 2006 s. 14)

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

as may be prescribed.

(Added 86 of 1991 s. 9. Amended 6 of 2006 s. 14)

Chapter:	354	WASTE DISPOSAL ORDINANCE	Gazette Number	Version Date
Section:	33	Regulations	L.N. 87 of 2010	19/11/2010

(1) The Governor in Council may after consultation with the Advisory Council on the Environment by regulation provide for- (Amended L.N. 165 of 1984; 8 of 1986 s. 8; L.N. 57 of 1994; 78 of 1999 s. 7)

- (a) the additional wastes or classes of waste to which a draft waste disposal plan under section 3 shall apply;
- (b) the design and construction of containers or enclosures for the storage of animal waste;
- (ba) the capacity, design, type, number, construction and materials used in the construction of containers provided in or on livestock premises for the storage of livestock waste; (Added 58 of 1987 s. 11)
- (bb) the capacity, design, type, number, construction and materials used in the construction of containers provided outside livestock premises for the collection of livestock waste; (Added 58 of 1987 s. 11)
- (c) the precautions to be taken to guard against dangers to public health or risks of pollution arising from waste;
- (ca) the authorization of any person to provide services for the collection or removal of chemical waste or clinical waste without a licence for that purpose; (Added 6 of 2006 s. 20)
- (d) the waste or classes of waste that may be disposed of under section 16 without a licence;
- (da) the authorization of any person to use any land or premises for the disposal of chemical waste or clinical waste without a licence for that purpose; (Added 6 of 2006 s. 20)
- (e) any substance, matter or thing to be defined as chemical waste with reference to such substance or chemical as may be prescribed and exceptions thereto, including the exception of any substance, matter or thing-
  - (i) of a class or description specified by the Director by notice in the Gazette; or
  - (ii) which the Director is satisfied having regard to such criteria or procedures as may be prescribed, does not constitute a danger to health or risk of pollution to the environment; (Replaced 86 of 1991 s. 12)



- (eaa) any substance, matter or thing to be defined as construction waste; (Added 17 of 2004 s. 8)
- (ea) the class, quantity or other description of waste in respect of which notice is to be given under section 17; (Added 86 of 1991 s. 12)
- (eb) exemptions or exclusions from the requirement to give notice under section 17 or from the regulations or any requirement of the regulations; (Added 86 of 1991 s. 12. Amended 6 of 2006 s. 20)
- (ec) the registration of persons producing or causing to be produced any waste, the keeping of a register or registers by the Director for that purpose and the particulars to be entered in any such register or registers; (Added 86 of 1991 s. 12)
- (ed) applications for registration and other procedures relating to registration; (Added 86 of 1991 s. 12)
- (ee) the inspection of the register in such places and at such times as may be determined by the Director and the issue by him of certified copies of entries in the register; (Added 86 of 1991 s. 12)
- (ef) the amendment of the register by the Director and the assignment, amendment or cancellation by him of registration numbers; (Added 86 of 1991 s. 12)
- (eg) prohibitions against producing or causing to be produced any waste by an unregistered person and the invalidity of the transfer of any registration; (Added 86 of 1991 s. 12)
- (f) the capacity, design, construction and materials to be used in the construction of containers holding beverages or fluids;
- (g) prohibiting the distribution of containers or any class of container which do or does not comply with such requirements as may be prescribed under paragraph (f), and without prejudice to the generality of the foregoing, such prohibition may be by reference to-
  - (i) the type of container;
  - (ii) the date of distribution;
  - (iii) place of distribution by retail sale;
  - (iv) the type of beverage or fluid;
  - (v) the source of the container;
- (h) the storage of any waste, the places, manner and conditions in which it is to be stored including-
  - (i) requirements as to containers for storage;
  - (ii) the labelling of such containers;
  - (iii) specifications of and particulars to be contained in such labels;
  - (iv) the display of notices in places of storage;
  - (v) specifications of and particulars to be contained in such notices; and
  - (vi) the maximum quantity of waste that may be stored; (Replaced 86 of 1991 s. 12)
- (ha) the collection, removal, transportation, transfer, reception, import or export or disposal, including treatment, reprocessing and recycling of any waste including in particular the equipment to be used, the arrangements to be made and the procedure to be observed in relation to such activities; (Added 86 of 1991 s. 12. Amended 6 of 2006 s. 20)
- (haa) (without limiting the generality of paragraph (ha)) in relation to clinical waste-
  - (i) the restriction on the class or classes of persons who may deliver or transport clinical waste in prescribed circumstances;
  - (ii) the type and the quantity of clinical waste that may be so delivered or transported;
  - (iii) the requirements to be observed in relation to the delivery or transportation; (Added 6 of 2006 s. 20)
- (hb) the duties of any person producing, causing to be produced, or in possession of any waste or engaged in or connected with any activity described in paragraph (ha); (Added 86 of 1991 s. 12)
- (i) any fees and charges payable under this Ordinance; (Amended 8 of 1986 s. 8; 78 of 1999 s. 7)
- (j) the charges payable to the Director for any service provided by or on behalf of the Crown in relation to the collection, removal, transportation, transfer, reception or disposal (including treatment, reprocessing or recycling) of any waste or class of waste; (Replaced 14 of 1995 s. 8)
- (ja) the procedure for appeals under Part VI and the forms to be used in relation to such appeals; (Added 86 of 1991 s. 12)
- (jb) the service of any notice under this Ordinance; (Added 14 of 1995 s. 8)
- (k) prescribing anything which is to be or may be prescribed by regulations.
- (l) different requirements in relation to wastes of different classes or descriptions; (Added 86 of 1991 s. 12)
- (m) generally carrying into effect the provisions of this Ordinance. (Added 86 of 1991 s. 12)

(1A) Regulations made under this section may-

(a) empower the Director-

- (i) to issue any document, in such form as he may determine, to be used in relation to the production, possession, collection, transportation, transfer, reception, import or export or disposal including treatment, reprocessing or recycling of any waste;
- (ii) in such document to specify particulars or information to be supplied by any person engaged in or connected with any activity referred to in subparagraph (i);
- (iii) without prejudice to subparagraph (ii), to require from any person specified in the regulations information as he may consider appropriate relating to any activity referred to in subparagraph (i);
- (iv) to specify additional particulars in respect of any labels required pursuant to subsection (1)(h);
- (v) to require the removal from any place of any waste which in his opinion is a threat to the health or safety of any person or constitutes a risk of pollution to the environment;
- (vi) to approve or otherwise-
  - (A) arrangements made for the disposal of chemical waste or clinical waste in circumstances as may be prescribed; or (Amended 6 of 2006 s. 20)
  - (B) storage of waste in excess of a prescribed maximum quantity;
- (vii) to grant exemptions with or without conditions from the regulations or any specified provision of the regulations; (Amended 6 of 2006 s. 20)
- (viii) to determine or specify the form of any document (not being a document the form of which is prescribed) required for the purposes of the regulations;
- (ix) to authorize (with or without conditions) any person of a class specified in a regulation made under subsection (1)(ca)-
  - (A) to receive clinical waste at such location as the Director may specify in his authorization; and
  - (B) to remove the waste so received in such manner as may be prescribed; (Added 6 of 2006 s. 20)
- (x) to authorize (with or without conditions) any person to collect or remove any chemical waste or clinical waste without a waste collection licence for that purpose if the Director opines that-
  - (A) an emergency involving the waste has arisen; or
  - (B) the circumstances are such that it would not be reasonably practicable to arrange for the waste to be collected or removed by the holder of such a licence; or (Added 6 of 2006 s. 20)
- (xi) to authorize (with or without conditions) any person to use any land or premises for the disposal of any chemical waste or clinical waste without a waste disposal licence for that purpose if the Director opines that-
  - (A) an emergency involving the waste has arisen; or
  - (B) the circumstances are such that it would not be reasonably practicable to use, for the disposal of the waste, any land or premises in respect of which such a licence is in force; (Added 6 of 2006 s. 20)

(b) provide-

- (i) in respect of chemical waste, that notwithstanding that regulations relating thereto have come into operation, they or any provision thereof shall not apply to such waste until a day appointed by the Director by notice in the Gazette for the purpose and that he may appoint different days with reference to any chemical or substance prescribed under subsection (1)(e) or a chemical or substance which is included in or is a constituent or component of such chemical or substance;
- (ii) that any requirement to register imposed on a person pursuant to the regulations shall not apply to such persons and for such period or under such circumstances as may be prescribed. (Added 86 of 1991 s. 12)

(1B) Without prejudice to the generality of subsection (1)(j), regulations made under that subsection may-

- (a) provide for different levels of charges to be payable for waste received at different facility, transfer, reception or disposal points or for waste delivered in different types of vehicle; (Amended 17 of 2004 s. 8)
- (b) where any service referred to in that subsection is provided in response to an accident or emergency involving waste (and whether or not in consequence of the accident or emergency there is an imminent

- danger to any person or property), provide for different or additional charges than would be the case where any such service is provided otherwise than in response to such an accident or emergency;
- (c) where any charge (including part of any charge) prescribed under that subsection remains unpaid after becoming due and payable, provide for the imposition of a surcharge not exceeding 20% of that charge;
  - (d) provide for the recovery of any charge (including any surcharge) prescribed under that subsection. (Added 14 of 1995 s. 8)
- (2) Regulations under this section may provide-
- (a) that-
    - (i) a contravention of any specified provision thereof; or
    - (ii) to knowingly or recklessly provide incorrect or misleading information or omit material particulars or information or knowingly or recklessly certify as correct anything which is incorrect, in relation to any requirement in the regulations,
 shall be an offences punishable with a fine not exceeding \$200000 and imprisonment not exceeding 6 months; and
  - (b) that if a person is convicted of an offence referred to in paragraph (a) and that offence is a continuing offence, such person shall, in addition to the penalties which may be imposed under that paragraph, be liable to a fine of \$10000 for each day on which the offence continues. (Replaced 86 of 1991 s. 12)
- (3) Regulations under this section may, in respect of any charge payable to the Director incurred or to be incurred under this Ordinance, provide for-
- (a) the Director to authorize the deferral of payment of the charge for a period specified by the Director and, in that connection, to specify the security (if any) to be furnished to and received by the Director as guarantee for payment of the deferred charge;
  - (b) the appointment by the Director of a person to collect on the Director's behalf the charge or any security referred to in paragraph (a);
  - (c) methods of the collection of the charge or security by the Director or by any person appointed under paragraph (b) and the manner in which a charge or security so collected should be accounted for. (Added 10 of 1997 s. 3)
- (4) Regulations under this section may, as regards any premises used for or in connection with the collection, removal, transportation, transfer, reception or disposal (including treatment, reprocessing or recycling) of waste (which activities are referred to in this subsection as "relevant activities" (有關活動))-
- (a) provide for-
    - (i) the regulation of traffic within, entering or leaving the premises;
    - (ii) the safety of persons present in the premises;
    - (iii) the avoidance of any nuisance or any risk of damage to health or the environment arising from the carrying on of any activity in the premises;
    - (iv) the prevention of any disruption to the operation of the premises or the carrying out of any relevant activity in the premises;
    - (v) measures to prevent or deter the commission of any offence under this Ordinance in or in relation to the premises;
    - (vi) means of detecting the commission of any offence against this Ordinance in or in relation to the premises;
    - (vii) measures to deter the evasion of any charges payable under this Ordinance in connection with a relevant activity in the premises;
  - (b) confer on the Director such powers as may be necessary or expedient for achieving the purposes specified in paragraph (a)(i) to (vii);
  - (ba) confer on the Director the power-
    - (i) to refuse to accept any waste at a designated waste disposal facility in such circumstances as the Director may think fit;
    - (ii) to determine whether a charge is to be imposed in respect of any waste or class of waste accepted for disposal at a waste disposal facility as may be prescribed by regulations made under this section;
    - (iii) to require any person who delivers any waste to a designated waste disposal facility to state the nature of the waste and give such other information as the Director may consider necessary to determine whether or not to accept the waste at that facility;

- (iv) to close temporarily any designated waste disposal facility for a specified period of time;  
(Added 17 of 2004 s. 8)
- (c) authorize the Director-
  - (i) to delegate-
    - (A) any person charged with carrying out or assisting in the carrying out of any relevant activity in such premises, or any person employed by such person; or
    - (B) any person charged with the collection of charges payable to the Director under this Ordinance or any person employed by such person,
  - to exercise any of the powers conferred on the Director by regulations made under paragraph (b);
  - (ii) to give directions of a general character to any person such as is specified in subparagraph (i) in relation to the performance of functions or the exercise of powers vested by this Ordinance.  
(Added 10 of 1997 s. 3)

(5) Regulations under this section-

- (a) may require the disclosure by a third person of information concerning the identity of any person who, being the driver of a vehicle, is suspected of having committed an offence against this Ordinance and may provide for the admission into evidence in proceedings for an offence under this Ordinance of information so obtained as proof of the identity of the driver of a vehicle at the time of the offence;
- (b) may provide, for the purposes of any criminal proceedings under this Ordinance or any civil proceedings under this Ordinance, including proceedings for the recovery of any charge payable under this Ordinance, for the admission into evidence of any document-
  - (i) produced by means of an image recording or printing device; or
  - (ii) purporting to be a record concerning such a device,
 as proof of the matters contained in such document. (Added 10 of 1997 s. 3)

(6) If a Schedule to any regulations made under this section specifies-

- (a) the premises used for or in connection with any of the relevant activities referred to in subsection (4);
- (b) the charges to be imposed in respect of any construction waste accepted for disposal at a waste disposal facility as may be prescribed by the regulations; or
- (c) the types of waste to be accepted at the premises for the disposal of waste,

the regulations containing the Schedule may provide that the Secretary may, by notice published in the Gazette, amend the Schedule. (Added 17 of 2004 s. 8)

Chapter:	354D	WASTE DISPOSAL (PERMITS, AUTHORIZATIONS AND LICENCES) (FEES) REGULATION	Gazette Number	Version Date
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Schedule:	2	FEES	L.N. 11 of 2008	01/04/2008
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[section 4]

Item	Particular	Fee \$
1A.	Permit required for the import of waste into Hong Kong referred to in section 20A(1) of the Ordinance-	
	(a) for a single shipment of waste .....	11595
	(b) for multiple shipments of waste .....	18430
		(L.N. 402 of 1996)
1B.	Permit required for the export of waste from Hong Kong referred to in section 20B(1) of the Ordinance-	
	(a) for a single shipment of waste .....	11595
	(b) for multiple shipments of waste .....	18430
		(L.N. 402 of 1996)
1C.	Authorization required for the disposal of imported waste referred to in section 20DA(2) of the Ordinance .....	11250



1. Waste collection licence- (6 of 2006 s. 29)
    - (a) for provision of a waste collection service-
      - (i) upon application for a new licence under section 21(1) of the Ordinance ..... 19270
      - (ii) upon application for a renewal of a licence under section 23(2) of the Ordinance ..... 9320
    - (b) for collection of waste produced by the licensee-
      - (i) upon application for a new licence under section 21(1) of the Ordinance ..... 4530
      - (ii) upon application for a renewal of a licence under section 23(2) of the Ordinance ..... 2465
  2. Waste disposal licence- (6 of 2006 s. 29)
    - (a) for provision of a waste disposal service-
      - (i) upon application for a new licence under section 21(2) of the Ordinance ..... 29820
      - (ii) upon application for a renewal of a licence under section 23(2) of the Ordinance ..... 14840
    - (b) for disposal of waste produced by the licensee-
      - (i) upon application for a new licence under section 21(2) of the Ordinance ..... 2915
      - (ii) upon application for a renewal of a licence under section 23(2) of the Ordinance ..... 1510
- (6 of 2006 s. 29)
- (L.N. 270 of 1994; L.N. 492 of 1996; L.N. 570 of 1997; L.N. 302 of 2000)
- (Enacted 1992)

## **Implications of the Proposal**

### **Environmental Implications**

At present, Hong Kong generates about 70 000 tonnes of WEEE per year. The mandatory PRS will help ensure proper treatment of e-waste that we generate and bring about positive environmental implications. Stepping up import control will help guard against international dumping and likewise enhanced export control will help ensure that our local waste problem will not be spilt over to other jurisdictions. On the other hand, the operation of the WEEETRF (and other private treatment facilities) will also be subject to the statutory requirements under relevant environmental legislation including the proposed new licensing control for the disposal of e-waste under the WDO.

### **Sustainability Implications**

2. The key features of the mandatory PRS are premised on the “polluter pays” principle which is in line with the Government’s First Sustainable Development Strategy for Hong Kong. Consistent with the guiding principle for sustainability in respect of environmental quality, the proposals also help Hong Kong to proactively avoid environmental problems for present and future generations and minimise the unwanted side effects of development. However, the differing views and concerns of various stakeholders should be handled with care during the implementation of the scheme.

### **Economic Implications**

3. Proper treatment of WEEE reduces the risks of hazardous components contaminating the environment and threatening human health. The mandatory PRS on WEEE is to internalise the environmental cost that may be resulted from the improper treatment of WEEE. It would also help relieve the increasing pressure on the landfills.

4. Based on past public consultation and the indicative range previously given, the recycling fees should be acceptable by the consumers and the trades, particularly after taking into account the harmful nature of WEEE and the durable nature of the equipment concerned. The proposed recycling fees to be collected from the suppliers may be shared among the consumers and different parties along the supply chain, with the exact amount borne by individual

parties depends primarily on the relative elasticity of supply and demand.

5. The mandatory PRS will also facilitate the fostering of a circular economy, promote technological upgrade in local WEEE recycling, and create job opportunities. In particular, the establishment of the WEEETRF will enhance the development of the local recycling industry. However, the mandatory PRS will incur various compliance costs, such as the registration of suppliers of the regulated electrical equipment, submission of periodic returns to the Government by registered suppliers, and costs relating to the provision of removal services by the sellers. The proposed compliance system is developed with reference to the findings of the relevant Business Impact Assessment study, with the affected trades closely involved. Although the additional compliance costs and new licensing requirements may weigh on the small businesses currently operating in the industry, we would keep the affected trade engaged so as to ensure that the mandatory PRS on WEEE would be operated in a cost effective manner.

### **Financial and Civil Service Implications**

6. At present, the Government absorbs some costs for the collection and treatment of WEEE in operating the existing municipal waste services and facilities in general, though detailed breakdown of the relevant costs is not available. The operation of a separate PRS may save some costs in the operation of those municipal services facilities. Since the majority of locally generated WEEE is exported, the savings is difficult to quantify but should unlikely be significant.

7. As approved by the LegCo FC, the DBO contract will incur a capital cost of \$548.6 million and annual operating cost of about \$200 million (assuming an annual throughput of 30 000 tonnes). The proposed recycling fees will enable the Government to recover the full costs of the DBO contract and other related PRS costs. In respect of the proposed new licensing requirement and enhanced permit control, fees set at full-cost recovery levels would be imposed for the issue/renewal of the relevant licences and permits.

8. As for manpower, additional civil service posts have been approved for undertaking preparatory work of the WEEETRF project. New staffing resources will be sought for operation of the WEEETRF upon commissioning in accordance with the established resource allocation mechanism. We also need additional manpower in the EPD and other relevant departments for implementation of the mandatory PRS, which will be sought through the established resource allocation mechanism.