

**立法會**  
*Legislative Council*

LC Paper No. LS52/14-15

**Paper for the House Committee Meeting  
on 20 March 2015**

**Legal Service Division Report on  
Promotion of Recycling and Proper Disposal (Electrical Equipment and  
Electronic Equipment) (Amendment) Bill 2015**

**I. SUMMARY**

- 1. The Bill**                      The Bill proposes to amend the Product Eco-responsibility Ordinance (Cap. 603) and Waste Disposal Ordinance (Cap. 354) to provide for a scheme for the recycling and disposal of certain types of electrical equipment and electronic equipment (i.e. washing machines, refrigerators, air conditioners, televisions, computer products, namely, computers, printers, scanners and monitors) and make technical amendments to related legislation.
- 2. Public Consultation**              According to the Administration, in 2010, it completed a public consultation exercise during which it briefed the Panel on Environmental Affairs (EA Panel), the Advisory Council on the Environment and other stakeholders. On 28 November 2011, the Administration reported the way forward of the proposed producer responsibility scheme (PRS) to the Panel.
- 3. Consultation with LegCo Panel**              As advised by the Clerk to EA Panel, the Panel was consulted on the proposed PRS on waste electrical and electronic equipment (WEEE) at meetings held between January 2010 and January 2015. The Administration has also consulted the Panel on a funding proposal relating to the development of a WEEE treatment and recycling facility. Members generally supported the proposals but expressed concerns about the implementation details of the scheme.
- 4. Conclusion**                      In light of the EA Panel's concerns, Members may wish to form a Bills Committee to study the Bill in detail. A letter has been issued to the Administration to clarify certain legal and drafting issues of the Bill. The Administration's reply is still pending. In the meantime, Legal Service Division will continue with the scrutiny of the Bill.

## **II. REPORT**

According to the LegCo Brief (File Ref.: EP CR 9/150/28 Pt.4) issued by the Environment Bureau and Environmental Protection Department in March 2015, the date of First Reading of the Bill is 18 March 2015.

### **Object of the Bill**

2. The Bill seeks to amend the Product Eco-responsibility Ordinance (Cap. 603) and Waste Disposal Ordinance (Cap. 354) to provide for a scheme for the recycling and disposal of specified types of electrical equipment and electronic equipment and make technical amendments to related legislation.

### **Background**

3. According to the LegCo Brief, the Bill seeks to provide for a statutory regulatory framework to implement a mandatory producer responsibility scheme (PRS) for the proper management of waste electrical and electronic equipment (WEEE) generated in Hong Kong. The scheme is based on the "polluter pays" principle. Further, the Administration has decided that it should develop the WEEE treatment and recycling facility (WEEETRF) through a design-build-and-operate contractual arrangement at a reserved site at the EcoPark in Tuen Mun and funding for the WEEETRF was approved by the Finance Committee on 27 February 2015<sup>1</sup>.

### **Key provisions of the Bill**

#### Scope of regulation

4. The Bill seeks to regulate the recycling and disposal of regulated electrical equipment (REE) which, in gist, is defined to mean any air conditioner, refrigerator, washing machine, television, computer, printer, scanner or monitor that has not been used by any consumer<sup>2</sup>.

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<sup>1</sup> Members may refer to LC Paper No. FCR (2014-15)51 for further details.

<sup>2</sup> The definition of REE is proposed to be added to Cap. 603 under clause 3 of the Bill. The definition refers to certain items of REE which are specified in Schedule 6 which is proposed to be added to Cap. 603 under clause 9 of the Bill.

## Scheme of control

### *Waste Disposal Ordinance (Cap. 354)*

5. The Bill proposes to apply the licensing control scheme under section 16 of Cap. 354 to the disposal of any REE that has been abandoned (e-waste<sup>3</sup>) where disposal<sup>4</sup>, in relation to e-waste, includes storage, treatment, reprocessing and recycling (but does not include repair). Further, the Bill proposes, in respect of the licensing requirement, to provide for the following exemptions<sup>5</sup> from the use of land or premises for —

- (a) 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>;
- (b) 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); or
- (c) the storage of e-waste on premises located inside a multi-storey building.

6. Furthermore, the waste disposal authority, i.e. the Director of Environmental Protection (DEP) must not grant a waste disposal licence in respect of any land or premises for the disposal of e-waste unless the authority is satisfied with specified circumstances<sup>6</sup>. Any person who contravenes the said licensing requirement in section 16 of Cap. 354 commits an offence.<sup>7</sup>

7. In addition, the Bill proposes to impose permit control under Cap. 354 such that the import and export of e-waste will require a permit issued by the waste disposal authority<sup>8</sup>. Any person who, without a permit, does anything for which such a permit is required commits an offence.<sup>9</sup> The Bill also proposes, under clause 23 of the Bill, to amend the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354L) to prohibit the disposal of e-waste at any designated waste disposal facility.

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<sup>3</sup> The definition of "e-waste" is proposed to be added to section 2 Cap. 354 by clause 11(3) of the Bill.

<sup>4</sup> The definition of "disposal", in relation to e-waste, is proposed to be added to section 2 of Cap. 354 by clause 11(1) of the Bill.

<sup>5</sup> The exemptions are proposed under clause 12(1) of the Bill.

<sup>6</sup> In gist, such circumstances are (a) the land or premises has a waste disposal facility that has the capacity to dispose such minimum quantity of e-waste and within such period as may be prescribed and (b) the said facility is capable of disposing e-waste in such other manner as may be prescribed. Members may refer to clause 17 of the Bill for details.

<sup>7</sup> Section 18(1) of Cap. 354 provides for penalties for an offence under section 16 of Cap. 354. Clause 13 proposes to add the new sections 18(4) and 18(5) to Cap. 354 to provide for a statutory defence.

<sup>8</sup> See clause 15 of the Bill.

<sup>9</sup> Section 20E of Cap. 354 provides for relevant penalties and clause 16 proposes to add the new sections 20G(5) and 20G(6) to Cap. 354 to provide for a statutory defence.

*Product Eco-responsibility Ordinance (Cap. 603)*

8. The Bill proposes to add the new Part 4 (consisting of six Divisions) to Cap. 603. In gist, Division 1 adds certain definitions to Cap. 603 and Division 2 provides for the registration of suppliers of REE. Under Division 2, a person who carries on a business of distributing REE for further distribution in Hong Kong without registration commits an offence. Division 3 provides for the obligations of registered suppliers and sellers, where a registered supplier distributing any REE is required to provide a recycling label for the REE, to pay a recycling fee for the REE<sup>10</sup> and submit returns and audit report to the DEP. A registered supplier who contravenes any of the said requirements commits an offence. Division 4 provides for the arrangement of REE removal services by sellers. Under the Bill, a removal service plan must first be endorsed by the DEP before a seller can distribute any REE concerned to a consumer. The Bill further proposes that a collector of any REE is required to ensure that the REE concerned is accepted by a recycler. Division 5 proposes to add the new section 44 to Cap. 603 so that the Secretary for the Environment (Secretary) is empowered to make regulations. Such regulations include any regulation which concerns the recycling fee for each class of REE, the payment of recycling fees by a registered supplier and the requirements of the removal service plan. Further, any regulation made pursuant to section 44 will be subject to the approval of the Legislative Council. Division 6 contains supplementary provisions such as exemptions<sup>11</sup> and the power of the Secretary to amend the proposed Schedules 6 and 7 to Cap. 603.

### **Commencement**

9. The Bill, if passed, will come into operation on a day to be appointed by the Secretary by notice published in the Gazette.

### **Public Consultation**

10. According to the LegCo Brief, in 2010, the Administration completed a public consultation exercise during which it briefed the Panel on Environmental Affairs (EA Panel), the Advisory Council on the Environment and other stakeholders. On 28 November 2011, the Administration reported the way forward of the proposed PRS to the Panel.

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<sup>10</sup> According to paragraph 13(c) of the LegCo Brief, exports of locally manufactured REE or re-exports of imported REE which will ultimately be used outside Hong Kong will not be subject to the proposed recycling fee. Further, paragraph 12 of the LegCo Brief states that subsidiary legislation in relation to the charging and amount of recycling fees will be submitted to LegCo for approval in due course.

<sup>11</sup> According to clause 8 of the Bill, it refers to the proposed Schedule 7 to Cap. 603. The Schedule concerns the exemptions to certain provisions in respect of certain items of REE. However, no item of REE has been proposed in the Schedule under the Bill.

## **Consultation with LegCo Panel**

11. As advised by the Clerk to EA Panel, the Panel was consulted on the proposed PRS on WEEE at its meetings on 25 January 2010, 22 February 2010, 29 March 2010 and 28 November 2011 in the last term. In the current term, the Panel was briefed on the progress of the scheme at its meetings on 28 April 2014 and 26 January 2015. At the meeting on 28 April 2014, the Panel was also consulted on a funding proposal relating to the development of a WEEETRF. Members generally supported the principles of PRS on WEEE and the development of the proposed WEEETRF. Members, however, were concerned about the implementation details of the scheme, particularly the level of recycling fees, the sharing of the fees among stakeholders, the fees collection mechanism and proper treatment of WEEE, and the scope of electrical equipment subject to regulation.

## **Conclusion**

12. In light of the EA Panel's concerns, Members may wish to form a Bills Committee to study the Bill in detail. Further, Legal Service Division (LSD) has issued a letter to the Administration to inquire about certain legal and drafting issues of the Bill. We are still awaiting reply from the Administration. In the meantime, LSD will continue with the scrutiny of the Bill.

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