

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 3 OF 2016



Carrie LAM
Acting Chief Executive
23 March 2016

An Ordinance 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

1. Short title and commencement

- (1) This Ordinance may be cited as the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for the Environment by notice published in the Gazette.

Part 2

Amendments to Product Eco-responsibility Ordinance

2. **Product Eco-responsibility Ordinance amended**

The Product Eco-responsibility Ordinance (Cap. 603) is amended as set out in sections 3 to 10.

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

Section 2(2)(c), after “recycling”—

Add

“levy or”.

4. **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);”.

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

Section 4, after “bags”—

Add

“and regulated electrical equipment”.

6. 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;”.

7. 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”.

8. 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.”.

9. 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 distributing it in the course of business;

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

- (a) supply the equipment by way of sale, hire or hire-purchase;
- (b) exchange or dispose of the equipment for consideration; or
- (c) transmit or deliver the equipment for any of the following activities—
 - (i) supplying by way of sale, hire or hire-purchase;
 - (ii) an exchange or disposal for consideration, but does not include any such act done with a view that the equipment is to be exported in the course of business;

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

recycling levy (循環再造徵費) means a levy prescribed for the purposes of this Part by the REE Regulation;

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, but does not include a person who only provides service for transporting the equipment that does not belong to the person for another person;

supplier (供應商) means—

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

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;

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.

Division 2—Registration of Suppliers

32. Prohibition of distributing regulated electrical equipment without registration

- (1) A supplier commits an offence if, not being registered under section 33, the supplier distributes regulated electrical equipment.
- (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 must register the person as a registered supplier.

34. Cancellation of registration

If the Director is satisfied that a registered supplier is no longer a supplier, the Director must 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), 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 (1) or (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.

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 levy 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 levy

- (1) Subject to subsection (2), a registered supplier must pay to the Director a recycling levy for any regulated electrical equipment if—
 - (a) the equipment—
 - (i) is manufactured in Hong Kong by the supplier in the course of the supplier's business; or
 - (ii) is, in the course of the supplier's business, imported into Hong Kong by the supplier for distribution, but is not imported during the course of a service provided by the supplier for transporting articles into Hong Kong for another person; and
 - (b) the supplier—
 - (i) distributes the equipment; or
 - (ii) uses the equipment for the first time.
- (2) The recycling levy is payable only once under this section in respect of any regulated electrical equipment.
- (3) An outstanding amount of recycling levy 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 levy 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 levy 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) commits an offence and is liable—
 - (a) on the first conviction, to a fine at level 6; and
 - (b) on a subsequent conviction, to a fine of \$200,000.
- (6) A person who contravenes subsection (3) commits an offence and is liable—
 - (a) on the first conviction, to a fine at level 6; and
 - (b) on a subsequent conviction, to a fine of \$200,000.
- (7) A person who contravenes subsection (4) commits an offence and is liable to a fine at level 5.
- (8) A payment notice under subsection (2)(b) is regarded as duly served on a registered supplier when it is sent by post to the last address provided by the supplier to the Director.

(9) In subsections (3) and (4)—
prescribed (訂明) means prescribed by the 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 levies 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 or uses regulated electrical equipment without having paid the Director the recycling levy payable under section 37 for the equipment (or any part of the levy).
- (2) For the purposes of subsection (1), entering into an agreement to distribute does not constitute distribution.

- (3) The Director may assess—
 - (a) for regulated electrical equipment mentioned in subsection (1)(a), the amount of recycling levy 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 levy 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 levy 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 levy 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 levy 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 levy that is outstanding at the expiry of the period mentioned in subsection (9); and
 - (b) an additional surcharge of 10% of the amount of recycling levy or the surcharge mentioned in paragraph (a) that is outstanding at the expiry of 6 months after the period mentioned in subsection (9).
- (12) An outstanding amount of recycling levy or surcharges payable under this section is recoverable as a civil debt due to the Government.
- (13) If an appeal is made under Division 5 of Part 2 against an assessment notice, any amount of recycling levy or surcharges that is outstanding remains payable under this section pending the determination of the appeal unless the Director decides otherwise.

- (14) A notice under this section is regarded as duly served on a relevant 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) For the purposes of subsection (1), 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.
- (7) 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) 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) A person who contravenes subsection (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.
- (8) 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.
- (9) The removal terms are void to the extent to which they are inconsistent with the provisions of this Ordinance.
- (10) For the purposes of subsection (2), (4) or (5), 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.

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 and the determination of the application;
 - (b) the cancellation of registration under section 34;
 - (c) the provision of recycling labels for each class of regulated electrical equipment by registered suppliers and sellers;
 - (d) the recycling levy for each class of regulated electrical equipment;
 - (e) the payment of recycling levies by registered suppliers;
 - (f) the submission of returns by registered suppliers;
 - (g) the information to be contained in the returns;

- (h) the records and documents to be kept by registered suppliers;
 - (i) the submission of audit reports by registered suppliers;
 - (j) the prescribed wording for the purposes of section 35(2)(b);
 - (k) the requirements of the removal service plan;
 - (l) the removal service required by section 42.
- (2) A regulation made under subsection (1) is subject to the approval of the Legislative Council.

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.”.

10. 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—

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016

Part 2
Section 10

Ord. No. 3 of 2016
A121

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		<ul style="list-style-type: none"><li data-bbox="594 498 966 664">(a) the apparatus comprises a tuner (or a receiver) and a display screen that are encased in a single casing;<li data-bbox="594 680 966 884">(b) the principal function of the apparatus is to receive and display television signals transmitted by an antenna or signal cable;<li data-bbox="594 900 966 1066">(c) the size of the display screen of the apparatus does not exceed 254 cm (100 inches) (measured diagonally); and<li data-bbox="594 1081 966 1422">(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.

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016

Part 2
Section 10

Ord. No. 3 of 2016
A123

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
5.	Computer	<p>(2) A television that falls within the definition of <i>monitor</i> in item 8 of this Schedule is nevertheless regarded, for the purposes of this Ordinance, as a television.</p> <p>(1) An electronic apparatus that is—</p> <ul style="list-style-type: none">(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.

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016

Part 2
Section 10

Ord. No. 3 of 2016
A125

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		<p>(2) A portable electronic apparatus that falls within the descriptions in paragraph (1) is nevertheless not regarded, for the purposes of this Ordinance, as a computer, if—</p> <ul style="list-style-type: none"><li data-bbox="595 744 975 917">(a) one of the principal functions of the apparatus is for mobile communication through a cellular radio network;<li data-bbox="595 932 975 1042">(b) the apparatus has the standard voice function of a telephone;<li data-bbox="595 1058 975 1183">(c) the apparatus is connected to the public switched telephone network (PSTN); and<li data-bbox="595 1199 975 1398">(d) the apparatus is generally called “telephone” or “phone” or by a name with a similar meaning in the course of marketing.

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016

Part 2
Section 10

Ord. No. 3 of 2016
A127

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
6.	Printer	<p data-bbox="532 498 966 769">(3) A computer that falls within the definition of other electrical equipment or electronic equipment in this Schedule is nevertheless regarded, for the purposes of this Ordinance, as a computer.</p> <p data-bbox="532 809 966 1196">(1) An electronic apparatus that falls within the following descriptions—</p> <ul style="list-style-type: none"><li data-bbox="594 926 966 1196">(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

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016

Part 2
Section 10

Ord. No. 3 of 2016
A129

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		<p>(b) the principal function of the apparatus is to print, by using electronic data from a computer connected to the apparatus, words or images on paper.</p> <p>(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.</p> <p>(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.</p>

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016

Part 2
Section 10

Ord. No. 3 of 2016
A131

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
7.	Scanner	An electronic apparatus that falls within the following descriptions— <ul style="list-style-type: none"><li data-bbox="594 577 966 848">(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<li data-bbox="594 863 966 1240">(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—

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016

Part 2
Section 10

Ord. No. 3 of 2016
A133

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		<ul style="list-style-type: none"><li data-bbox="594 498 966 631">(a) the apparatus does not have the function of storing electronic data or computing;<li data-bbox="594 647 966 1094">(b) the principal function of 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<li data-bbox="594 1110 966 1376">(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

11. Waste Disposal Ordinance amended

The Waste Disposal Ordinance (Cap. 354) is amended as set out in sections 12 to 19.

12. 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;”.

13. 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 m²;
- (eb) the storage of e-waste with a total volume of not more than 50 m³ (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.”.

14. 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.”.

15. 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),”.

16. 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),”.

17. 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 under subsection (5) 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.”.

18. 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.”.

19. 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”.

Part 4

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

20. 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 21 and 22.

21. Section 5 added

After section 4—

Add

“5. Amendment of Schedule 2

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

22. Schedule 2 amended (fees)

Schedule 2—

Repeal

“[s. 4]”

Substitute

“[ss. 4 & 5]”.

Part 5

Amendment to Waste Disposal (Designated Waste Disposal Facility) Regulation

23. 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 24.

24. 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.”.