

立法會
Legislative Council

LC Paper No. CB(1)1349/16-17
(These minutes have been seen
by the Administration)

Ref : CB1/SS/9/16/1

**Subcommittee on Promotion of Recycling and Proper Disposal (Electrical
Equipment and Electronic Equipment) (Amendment) Ordinance 2016
(Commencement) Notice 2017 and Product Eco-Responsibility (Regulated
Electrical Equipment) Regulation**

**Minutes of fourth meeting
held on Friday, 9 June 2017, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Ir Dr Hon LO Wai-kwok, SBS, MH, JP (Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Charles Peter MOK, JP
Hon KWOK Wai-keung
Dr Hon Junius HO Kwan-yiu, JP
Hon SHIU Ka-fai
Hon Tanya CHAN
Hon HUI Chi-fung
Dr Hon YIU Chung-yim

Members absent : Hon LEUNG Che-cheung, BBS, MH, JP
Hon CHU Hoi-dick

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

**Public Officers
attending : For item I**

Mr Donald NG
Deputy Director of Environmental Protection (4)
Environmental Protection Department

Mr Samson LAI
Assistant Director (Waste Management Policy)
Environmental Protection Department

Mr Manuel NG
Senior Government Counsel
Department of Justice

Clerk in Attendance : Ms Angel SHEK
Chief Council Secretary (1)1

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Mr Jason KONG
Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

Action

I. Meeting with the Administration

(LC Paper No. CB(1)1102/16-17(01) — List of follow-up actions arising from the discussion at the meeting on 2 June 2017

LC Paper No. CB(1)1102/16-17(02) — Administration's response to the issues raised at the meeting on 2 June 2017 and its proposed amendments to Product Eco-responsibility (Regulated Electrical Equipment) Regulation

Action

LC Paper No. CB(1)1102/16-17(03) — Amendments to Product Eco-responsibility (Regulated Electrical Equipment) Regulation proposed by Hon HUI Chi-fung

Relevant papers

LC Paper No. CB(1)934/16-17(01) — Provisions of the Proposed Resolution under section 44 of the Product Eco-responsibility Ordinance (Cap. 603)

File Ref: EP CR 9/150/28 — Legislative Council Brief

LC Paper No. LS65/16-17 — Legal Service Division Report

LC Paper No. CB(1)934/16-17(02) — Background brief prepared by the Legislative Council Secretariat

LC Paper No. CB(1)934/16-17(03) — Assistant Legal Adviser's letter dated 8 May 2017 to the Administration

LC Paper No. CB(1)934/16-17(04) — Administration's reply to Assistant Legal Adviser's letter dated 8 May 2017)

The Subcommittee deliberated (index of proceedings attached at the **Annex**).

Follow-up actions to be taken by the Administration

Admin 2. The Administration was requested to consider revising its proposed amendments to the Product Eco-responsibility (Regulated Electrical Equipment) Regulation ("REE Regulation"), as set out in the Annex to LC Paper No. CB(1)1102/16-17(02), to incorporate the following suggestions raised by members and/or the Legal Adviser to the Subcommittee:

Action

- (a) to amend the term "無一人" in the Chinese rendition of section 31(1)(a)(iii) to fully align with its English rendition "none of the collectors"; and
- (b) to delete "the" before "3 days" in the English rendition of section 40(b).

(Post-meeting note: The Administration's revised proposed amendments to the REE Regulation were circulated to members on 13 June 2017 vide LC Paper No. CB(1)1127/16-17(01).)

II. Any other business

Legislative timetable

3. The Chairman concluded that the Subcommittee had completed its work. The Deputy Director of Environmental Protection (4) advised that the Administration intended to move a resolution on the REE Regulation, as revised, at the Council meeting of 5 July 2017. Members noted that Mr HUI Chi-fung might move amendments in his name to (a) amend section 9(3) of the REE Regulation to the effect of requiring registered suppliers of regulated electrical equipment ("REE") to affix recycling labels onto REE distributed by them, and (b) delete section 27(3) which concerned how the recycling labels should be provided by sellers to consumers. Mr HUI might also move amendments in his name to enable a consumer to decide on the need of a removal service not later than his/her taking actual possession of the REE item concerned. Members noted that the deadline for giving notice of amendments would be 27 June 2017.

(Post-meeting note: The resolutions proposed by Mr HUI to amend the REE Regulation were issued to Members on 3 July 2017 vide LC Paper No. CB(3)780/16-17.)

4. There being no other business, the meeting ended at 12:13 pm.

Subcommittee on Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 (Commencement) Notice 2017 and Product Eco-Responsibility (Regulated Electrical Equipment) Regulation

**Proceedings of the fourth meeting
on Friday, 9 June 2017, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I — Meeting with the Administration</i>			
000525 – 001041	Chairman Administration	The Chairman's opening remarks and the Administration's briefing on its proposed amendments to the Product Eco-responsibility (Regulated Electrical Equipment) Regulation ("REE Regulation"), which were set out in LC Paper No. CB(1)1102/16-17(02).	
001042 – 002841	Chairman Mr HUI Chi-fung Administration Assistant Legal Adviser ("ALA") Mr SHIU Ka-fai	<p>Discussion on Mr HUI's proposed amendment to section 9(3) of the REE Regulation to the effect of requiring registered suppliers of regulated electrical equipment ("REE") to affix recycling labels onto REE distributed by them, and deletion of section 27(3) which concerned how the recycling labels should be provided by sellers to consumers (LC Paper No. CB(1)1102/16-17(03)).</p> <p>ALA pointed out that:</p> <p>(a) the requirements imposed by the REE Regulation on registered suppliers and sellers of REE must be consistent with those laid down in the Product Eco-responsibility Ordinance (Cap. 603) ("PERO");</p> <p>(b) under section 35 of PERO, a registered supplier and a seller of REE each had their respective duties to provide an appropriate recycling label for a piece of distributed REE. It warranted serious consideration on whether a seller might conveniently claim to have reasonably relied on the registered supplier that the latter must have complied with the requirement under section 35(1) of PERO and, hence, the seller could fully exonerate itself from the liability under section 35(2)(a) of PERO if the seller failed to provide an appropriate recycling label for a piece of REE it distributed; and</p> <p>(c) the amendments proposed by Mr HUI did not expressly impose a duty on the seller to check or ensure that the requirements imposed on a registered supplier under section 35(1) of PERO had been complied with before the seller fulfilled its duty under section 35(2)(a) of PERO.</p> <p>Mr HUI considered that sellers might discuss with registered suppliers with a view to making mutually agreed</p>	

Time marker	Speaker	Subject(s)	Action required
		arrangements to fulfil their respective legal obligations in the provision of recycling labels for REE. He also indicated that he might review his proposed amendments and move the amendments in his name.	
002842 – 003812	Chairman Mr CHAN Hak-kan Administration	<p>Discussion on the requirements imposed on manufacturers, importers and sellers of prescribed products to provide energy labels under the Mandatory Energy Efficiency Labelling Scheme, and whether such requirements were comparable to the requirements imposed on registered suppliers and sellers of REE to provide recycling labels under the producer responsibility scheme on waste electrical and electronic equipment ("WPRS").</p> <p>ALA pointed out that it was required under section 5 of the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598) that a person who was not a manufacturer or importer of a prescribed product should not supply the prescribed product unless the person had ensured, among other things, that the product bore an energy label that was attached or affixed to the prescribed product. In the case of WPRS, the seller was required under section 35(2) of PERO to provide the recycling labels.</p>	
003813 – 004227	Chairman Dr Junius HO Administration	Discussion on how to verify the authenticity of recycling labels provided by REE sellers to consumers for protecting consumers' interests.	
004228 – 004442	Chairman Mr WONG Ting- kwong Administration	In response to Mr WONG's question, the Administration advised that individual computer parts were not REE under PERO.	
004443 – 005126	Chairman Mr HUI Chi-fung Administration ALA	Mr HUI's further enquiry and ALA's response on the requirements under section 5 of Cap. 598.	
005127 – 005447	Chairman Mr Charles Peter MOK	Mr MOK's view that registered suppliers and sellers should be given flexibility as to how the recycling labels should be provided.	
005448 – 012851	Chairman Administration Mr HUI Chi-fung ALA Mr SHIU Ka-fai	<p>Examination of the Administration's proposed amendments to the REE Regulation (LC Paper No. CB(1)1102/16-17(02)).</p> <p><i>Proposed amendments to sections 9(3) and 27(3)</i></p> <p>Mr HUI expressed concern that the words "or otherwise" in the proposed amendments to sections 9(3) and 27(3) (in respect of the duties of registered suppliers and sellers to provide recycling labels) might be construed as allowing</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>registered suppliers and sellers to choose not to provide any recycling label at all. The Administration and ALA advised that registered suppliers and sellers were required under PERO to provide recycling labels. As the requirements under the REE Regulation should be consistent with those laid down under PERO, the words "or otherwise", when read in the context of the relevant sections of the REE Regulation, could be safely construed as referring to the manner in which recycling labels were to be provided.</p> <p><i>Proposed amendments to sections 31(1), 32(2), 39, 40 and 41</i></p> <p>In response to the Chairman and ALA's enquiries, the Administration explained that the term "distribution transaction" was defined through an amendment to section 39 to mean a transaction in which REE was distributed by a seller; and the term "distribute", in relation to REE, had been defined under PERO.</p> <p>Mr HUI opined that the proposed amendments to section 40 (to the effect of shortening the lead time for a consumer to consider a REE removal service) would undermine protection of consumers' right to make use of the REE removal service. He indicated that he might consider moving amendments in his name to enable a consumer to decide on the need of a removal service not later than his/her taking actual possession of the REE item concerned.</p> <p>At ALA's suggestion, the Subcommittee requested the Administration to include textual amendments to the REE Regulation to:</p> <p>(a) amend the term "無一人" in the Chinese rendition of section 31(1)(a)(iii) to fully align with its English rendition "none of the collectors"; and</p> <p>(b) delete "the" before "3 days" in the English rendition of section 40(b).</p>	<p>Admin (paragraph 2 of the minutes)</p>
Agenda Item II — Any other business			
012852 – 013259	Chairman Administration Mr HUI Chi-fung	Legislative timetable	