

立法會

Legislative Council

LC Paper No. CB(1)934/16-17(02)

Ref. : CB1/SS/9/16

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

Background brief

Purpose

This paper provides background information on the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 (Commencement) Notice 2017 ("Commencement Notice"), and the Product Eco-responsibility (Regulated Electrical Equipment) Regulation ("REE Regulation"), which relate to the implementation of the producer responsibility scheme ("PRS") on waste electrical and electronic equipment ("WEEE") ("WPRS" in short). It also gives a brief account of the views and concerns expressed by Members when issues related to WPRS were discussed by the relevant committees of the Legislative Council ("LegCo").

Background

2. In the Policy Framework for the Management of Municipal Solid Waste (2005-2014) published in December 2005, the Administration proposed to introduce PRSs for six types of products including electrical and electronic equipment that would require manufacturers, importers, wholesalers, retailers and consumers to share the responsibility for the collection, recycling, treatment and disposal of end-of-life products in line with the "polluter pays" principle.¹ The Product Eco-responsibility Ordinance (Cap. 603) ("PERO") was enacted in

¹ The six types of products are plastic shopping bags, electrical/electronic equipment, beverage containers, vehicle tyres, packaging materials and rechargeable batteries.

July 2008 as a piece of enabling legislation to provide for the shared core elements of all PRSs and the fundamental regulatory requirements in respect of individual types of products concerned, while the operational details are prescribed by subsidiary legislation.

3. In 2010, a public consultation was conducted on the introduction of WPRS and community feedback was generally supportive. In February 2015, the Administration obtained approval by the Finance Committee of LegCo on a funding proposal for the development of a WEEE treatment and recycling facility ("WEEETRF") as an essential infrastructure for the launch of WPRS.²

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

4. The Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 ("Amendment Ordinance") was enacted in March 2016 to establish the regulatory framework for implementation of WPRS with the following main features:³

- (a) *Scope of regulated products*: Eight classes of products, namely air conditioner, refrigerator, washing machine, television, computer, printer, scanner and monitor, are defined as regulated electrical equipment ("REE") and subject to WPRS;
- (b) *Proper treatment of REE*: The licensing control under section 16 of Waste Disposal Ordinance (Cap. 354) ("WDO") is extended to the disposal (including storage, treatment, reprocessing and recycling) of e-waste.⁴ Disposal of e-waste at designated waste disposal

² The approved funding proposal is for the development of WEEETRF at an estimated capital cost of \$550 million and operating expenses of \$200 million per annum.

³ The Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 was introduced into LegCo in March 2015, which sought to amend mainly PERO and Waste Disposal Ordinance (Cap. 354). A bills committee was formed to study the Bill. The relevant report is hyperlinked in the Appendix.

⁴ "E-waste" is defined under section 12 of the Amendment Ordinance as any electrical equipment or electronic equipment that, judging by its appearance, is an item set out in column 2 of the new Schedule 6 to PERO and has been abandoned.

facilities, including landfills, is prohibited so as to divert e-waste from the waste stream to recycling facilities;⁵

- (c) *Import and export of regulated e-waste*: Permit control under WDO for the import and export of waste is applied to e-waste to prevent e-waste traded through Hong Kong from increasing the local waste burden or causing environmental hazards in other jurisdictions;
- (d) *Provision of removal services by sellers*: A seller⁶ of REE must have a removal service plan endorsed by the Director of Environmental Protection ("DEP") under which for every piece of REE 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; and
- (e) *Charging of recycling levies*: manufacturers and importers who distribute REE to the local market have to be registered as "registered suppliers". A registered supplier distributing any REE is required to provide recycling labels for the REE,⁷ pay recycling levies,⁸ and submit returns and audit reports to DEP.

⁵ The Amendment Ordinance amended the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354L) for banning disposal of e-waste in facilities listed in Schedule 1 to the Regulation.

⁶ "Seller" is defined to mean a person who carries on a business of distributing REE 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.

⁷ The purpose of the recycling label is to facilitate identification of REE which is covered by WPRS with the recycling levy paid or to be paid by the relevant registered supplier.

⁸ The recycling levy is payable if (a) the equipment is manufactured in Hong Kong by the supplier in the course of the supplier's business; or is imported into Hong Kong by the supplier in the course of the supplier's business 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 distributes the equipment, or uses the equipment for the first time.

Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 (Commencement) Notice 2017

5. The Commencement Notice was published in the Gazette on 21 April 2017 and tabled before LegCo on 26 April 2017. The purpose of the Commencement Notice is to provide the necessary basis for further preparatory work for WPRS. It brings into operation certain provisions of the Amendment Ordinance which relate to:

- (a) empowering the Secretary for the Environment ("SEN") to (i) make regulations which concern the application for and cancellation of registration of suppliers of REE, and (ii) amend Schedules 6 and 7 to PERO which contain the list of REE to which PERO applies and the list of REE exempted from certain provisions respectively;
- (b) amendments to WDO and the Waste Disposal (Permits, Authorizations and Licences) (Fees) Regulation (Cap. 354D) in relation to matters concerning fees for permits, authorization or licences to be granted by SEN for waste disposal; and
- (c) amendments to WDO to add the definitions of "e-waste" and "disposal" in relation to e-waste; and prescribe the circumstances under which SEN can grant a waste disposal licence to an applicant.⁹

6. The Commencement Notice is subject to negative vetting by LegCo. The provisions relating to (a) and (b) above have commenced operation on the gazettal date of the Commencement Notice (i.e. 21 April 2017), whereas the provisions relating to (c) will come into operation on 19 June 2017.

⁹ The Administration intends to accept applications for waste disposal licences in respect of e-waste from 19 June 2017, with a view to commencing the prohibition against disposal of e-waste without a licence tentatively in end 2017.

Product Eco-responsibility (Regulated Electrical Equipment) Regulation

7. SEN has given notice for moving a motion for LegCo to approve the REE Regulation at the Council meeting of 24 May 2017.¹⁰ The REE Regulation seeks to provide for the necessary operational details under PERO, including:

- (a) application for registration of suppliers and the determination of the application;
- (b) provision of recycling labels for each class of REE by registered suppliers and sellers;
- (c) recycling levy for each class of REE;
- (d) payment of recycling levies by registered suppliers;
- (e) submission of returns by registered suppliers;
- (f) information to be contained in the returns;
- (g) records and documents to be kept by registered suppliers;
- (h) submission of audit reports by registered suppliers;
- (i) the prescribed wording for receipts;
- (j) requirements of the removal service plan; and
- (k) the removal service arranged by sellers.

Major views and concerns expressed by Members

8. The Panel on Environmental Affairs ("EA Panel") discussed matters concerning WPRS at various meetings in the last and current terms of LegCo. Related issues were raised when the funding proposal for WEEETRF was considered by the Public Works Subcommittee and Finance Committee. The Bills Committee formed to scrutinize the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment)

¹⁰ At the request of the House Committee, SEN has withdrawn the notice to move the proposed motion to allow time for the Subcommittee to study the REE Regulation in detail.

Bill 2015 held eight meetings from April to December 2015. Members' major views and concerns are summarized in the ensuing paragraphs.

Compliance burden on suppliers and sellers of regulated electrical equipment

9. Members relayed the trades' concerns about the compliance costs and operational difficulties regarding the requirements to provide recycling labels to consumers and submit annual audit reports to DEP. They enquired whether a transitional period would be provided for suppliers and sellers to adjust their internal systems, and how the Administration would help small retailers cope with the compliance burden.

10. The Administration advised that the relevant trades had been consulted and generally agreed to the need for and benefits of ensuring proper recycling of WEEE. The Administration had been maintaining close communication with the trades on the operational details of WPRS, and taken on board their views as appropriate. For instance, as suppliers/sellers had expressed operational difficulty in affixing a recycling label on each piece of REE, the REE Regulation would allow flexibility on how recycling labels could be provided to consumers.

Removal services to be provided by sellers

11. On the operation of the seller-arranged removal services, Members sought elucidation on the detailed arrangements such as whether a seller was obliged to remove an old item of REE from a premises designated by the consumer if the recycling label of that product was lost. The Administration explained that when a seller distributed an item of REE to a consumer, the seller would be required to arrange for the removal of an item of the same class (if any), irrespective of whether the item to be removed was distributed by the same seller. Therefore, the loss of the recycling label of an old item of REE would not deprive a consumer of the benefit of utilizing the service. Besides, the seller must notify the consumer in writing its obligation in relation to the removal service before entering into any contract of REE distribution. However, it was not a mandatory requirement for a consumer to use the removal service and no fee would be reimbursed to the consumer if the removal service was not used.

Licensing control on disposal of regulated electrical equipment

12. Members expressed concern about the potential difficulty for existing WEEE recyclers to meet the relevant land requirements in order to obtain a waste disposal licence for the storage, treatment, reprocessing or recycling of e-waste. The Administration stressed that under the licensing control to be

introduced in connection with WPRS, a waste disposal licence for e-waste would only be issued if the applicant could demonstrate that its dismantling, detoxification and recovery operations would be conducted in an environmentally sound manner, and would not create hazards to public health. In processing the applications, the Environmental Protection Department would work with relevant government departments to consider how to take into account the proposed operation's compliance with the land use requirements.

Recycling levy

13. Members were concerned about potential evasion of the recycling levy payment through parallel trading or purchase of REE from overseas websites. The Administration advised that an individual would not be required to pay the recycling levy if the person purchased REE from outside Hong Kong for personal use in Hong Kong. As consumers usually required warranty and other ancillary services provided by REE suppliers/sellers, it was unlikely that online purchase of REE from outside Hong Kong would proliferate after implementation of WPRS to evade levy payment or save costs. However, if REE was imported for distribution, the person concerned would fall under the definition of "supplier" and must apply for registration as a registered supplier in order to distribute the REE legally, regardless of how the REE was imported/purchased.

Council questions

14. At the Council meetings of 24 April 2013 and 6 July 2016, Hon CHAN Hak-kan and Hon Kenneth LEUNG raised questions on the Administration's internal policy on procurement and disposal of electrical/electronic equipment, and operation of existing WEEE recyclers. The questions and the Administration's replies are hyperlinked in the **Appendix**.

Latest development

15. Members agreed at the House Committee meeting on 28 April 2017 to form a subcommittee to study the Commencement Notice. The House Committee further decided at its meeting on 12 May 2017 to task the same subcommittee with scrutinizing the REE Regulation. At the request of the House Committee, SEN has withdrawn the notice to move the proposed motion mentioned in paragraph 7 above to allow time for the Subcommittee to study the REE Regulation in detail.

Relevant papers

16. A list of relevant papers is set out in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
15 May 2017

**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**

List of relevant papers

Date	Event	Paper
28 April 2014	Meeting of the Panel on Environmental Affairs	Administration's paper on "Handling of waste electrical and electronic equipment (WEEE) and WEEE Treatment and Recycling Facility" (LC Paper No. CB(1)1292/13-14(03)) Minutes of meeting (LC Paper No. CB(1)1812/13-14) Administration's follow-up paper (LC Paper No. CB(1)1499/13-14(01))
23 January 2015	Meeting of the Public Works Subcommittee	Administration's paper on "180DR Development of the Waste Electrical and Electronic Equipment Treatment and Recycling Facility" (PWSC(2014-15)39) Minutes of meeting (LC Paper No. PWSC115/14-15) Administration's follow-up paper (LC Paper No. PWSC107/14-15(01))
26 January 2015	Meeting of the Panel on Environmental Affairs	Administration's paper on "Producer Responsibility Scheme on Waste Electrical and Electronic Equipment" (LC Paper No. CB(1)454/14-15(04)) Minutes of meeting (LC Paper No. CB(1)674/14-15)

Date	Event	Paper
13 March 2015	The Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 ("the Bill") was introduced into the Legislative Council	The Bill Legislative Council Brief (File Ref: EP CR 9/150/28 Pt.4) Legal Service Division Report (LC Paper No. LS52/14-15)
April to December 2015	The Bills Committee on Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015	Report of the Bills Committee (LC Paper No. CB(1)489/15-16)
17 March 2016	The Bill was passed by the Legislative Council	Bill passed
27 June 2016	Meeting of the Panel on Environmental Affairs	Administration's paper on "Import and Export Control on Recyclables" (LC Paper No. CB(1)1054/15-16(02)) Minutes of meeting (LC Paper No. CB(1)1168/15-16) Administration's follow-up paper (LC Paper No. CB(1)1172/15-16(02))
23 January 2017	Meeting of the Panel on Environmental Affairs	Administration's paper on "Implementation of the Producer Responsibility Scheme on Waste Electrical and Electronic Equipment" (LC Paper No. CB(1)444/16-17(03)) Minutes of meeting (LC Paper No. CB(1)683/16-17)

Date	Event	Paper
April 2017	The Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 (Commencement) Notice 2017 was published in the. Gazette. The Secretary for the Environment gave notice to move a motion for the Legislative Council to approve the Product Eco-responsibility (Regulated Electrical Equipment) Regulation	Legislative Council Brief issued by the Environment Bureau / Environmental Protection Department (File Ref: EP CR 9/150/28) Legal Service Division Reports (LC Paper No. LS58/16-17) (LC Paper No. LS65/16-17)

Hyperlinks to relevant Council Questions:

Date	Council Question
24 April 2013	Press release on Council question (written) raised by Hon CHAN Hak-kan
6 July 2016	Press release on Council question (written) raised by Hon Kenneth LEUNG