

**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**

With the support of the Subcommittee and taking into account comments raised by Subcommittee members at the meeting on 2 June 2017, this note presents the amendments that the Government intends to propose to the Product Eco-responsibility (Regulated Electrical Equipment) Regulation (“REE Regulation”).

The Proposed Amendments

***Provision of Recycling Labels
(Sections 9 and 27 of the REE Regulation)***

2. As we explained to the Subcommittee, there could be operational challenges for the trades to affix a label onto an item of regulated electrical equipment (“REE”) prior to its distribution. However, it is also our intention to encourage the affixation of the recycling label onto the REE before it is distributed. To better reflect such intention, we intend to propose the following amendments to section 9(3) and 27(3) in respect of the provision of recycling labels by a registered supplier and a seller respectively –

9(3) ~~To avoid doubt, The registered supplier may provide~~ the label ~~is not required to be provided~~ by affixing it ~~onto to~~ the regulated electrical equipment or otherwise.

27(3) ~~To avoid doubt, The seller may provide~~ the label ~~is not required to be provided~~ by affixing it ~~onto to~~ the regulated electrical equipment or otherwise.

3. On the Honourable HUI Chi-fung’s proposed amendments to the above provisions to require the recycling label to be affixed onto the REE, we understand that the objective of his proposal is to enhance consumers’ awareness of the recycling levy collected in respect of the REE and remind consumers of the importance of proper recycling until the REE has to be abandoned. But as we explained earlier, this objective could be better achieved through publicity and public education. It should also be noted that sellers are required to inform consumers of

the recycling levy imposed on the REE through the wordings for the official receipts as prescribed under the proposed Regulation as well as their obligations in relation to the provision of statutory removal services. For these reasons, the Government would advise against the adoption of these amendments.

***Removal Service Plan
(Section 31 and 32 of the REE Regulation)***

4. At present, we have proposed that a removal service plan submitted by a seller for endorsement must not specify more than 3 collectors and one of such collector must be a “default collector”. To allow more flexibility to cater for practical circumstances envisaged by the sellers, we intend to propose the following amendments to section 31(1) and 32(2) to (i) allow a maximum of 5 collectors to be specified in the removal service plan and (ii) allow the seller to provide removal service if needed –

31(1) The following requirements are the requirements under section 41(3)(c) of the Ordinance—

(a) the plan to be endorsed—

(i) must not specify more than ~~3~~5 collectors; ~~and~~

(ii) must specify 1 collector who meets the requirement specified in subsection (2) as a default collector; and

(iii) must indicate in the specified form whether the seller will provide a removal service in case none of the collectors specified in the plan is able and willing to provide the service; and

...

32(2) The Director may refuse to endorse a plan as mentioned in section 41(2) of the Ordinance if the Director is satisfied that —

...

(e) the plan is impracticable; ~~or~~

(f) the applicant has already had a plan endorsed; ~~or~~

(g) the applicant will not be able to cause the electrical equipment or electronic equipment removed by the applicant in accordance with the plan to be properly treated, reprocessed or recycled.

5. Other minor amendments will also be proposed to section 41 in order to make provisions for the keeping of records in case a seller provides the removal service.

***Request for Removal Service
(Section 40 of the REE Regulation)***

6. At present, we have proposed that amongst other things, a request for removal service must be made before the expiry of 3 days after the consumer takes actual possession of the distributed equipment. In actual circumstances, we understand that provision of a long lead time for the consumer to give consideration to the matter might not be useful because such a decision may usually be made by a consumer “on the spot”. Taking into account comments of Subcommittee members, we find it reasonable to require a consumer to decide on the need of a removal service within 3 days after the purchase of the REE. We intend to propose the following amendments to section 40 to this effect –

A request for a removal service must be made—

- (a) in the manner specified by the seller; and
- (b) ~~before the expiry of~~ within the 3 days after the consumer enters into the distribution transaction with the seller~~takes actual possession of the distributed equipment.~~

7. It is noteworthy that in the above, the technical term “distribution transaction” will be defined through an amendment to section 39 to mean a transaction in which the REE is distributed by a seller, where “distribute” has already been defined under the Amendment Ordinance.

Way Forward

8. All the proposed amendments have been incorporated into the REE Regulation in revision mode at **Annex** for ease of reference. Subject to the Subcommittee’s further comments, it is our target to re-submit the REE Regulation as well as the Legislative Council resolution for approval (with the relevant amendments) at the Council meeting of 5 July 2017.

**Environmental Protection Department
June 2017**

Product Eco-responsibility (Regulated Electrical Equipment) Regulation

(Made by the Secretary for the Environment under section 44 of the Product Eco-responsibility Ordinance (Cap. 603) after consulting the Advisory Council on the Environment and subject to the approval of the Legislative Council)

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for the Environment by notice published in the Gazette.

2. Interpretation

(1) In this Regulation—

cancel (撤銷) means cancel under section 34 of the Ordinance;

cancellation date (撤銷日期), in relation to a registration, means the date on which the registration is cancelled;

discrepancy list (差異清單) means a document prepared under section 20(2);

ending date (結束日期), in relation to a short-term registration, means the date specified for the registration under section 6(1)(e);

endorsement application (批註申請) means an application under section 30(1);

first cut-off date (首個截數日期), in relation to an ordinary registration, means the date specified for the registration under section 6(1)(d);

ordinary registration (一般登記) means the ordinary registration mentioned in section 4(1)(a);

payable (須繳付) means payable under section 37(1) of the Ordinance;

recycling levy (循環再造徵費) means the levy prescribed under section 22(1);

registration (登記) means a registration under section 33 of the Ordinance;

registration date (登記日期), in relation to a registration, means the date specified for the registration under section 6(1)(b);

removal service (除舊服務) means a removal service under section 42(2) of the Ordinance;

reporting period (申報期) has the meaning given by section 12;

short-term registration (短期登記) means the short-term registration mentioned in section 4(1)(b);

specified form (指明表格) means a form specified under section 42.

(2) In this Regulation, a reference to a class of recycling labels is a reference to a class of recycling labels as specified by the Director for the purposes of section 36 of the Ordinance.

(3) In this Regulation, an expression specified below has the same meaning as it has in section 31 of the Ordinance—

consumer (消費者);

distribute (分發);

recycling label (循環再造標籤);

registered supplier (登記供應商);

removal service plan (除舊服務方案);

return (申報);

seller (銷售商);

supplier (供應商);

use (使用).

Part 2

Matters Related to Registered Suppliers

Division 1—Registration

3. Application of Division 1

This Division applies to an application for registration under section 33 of the Ordinance.

4. Application for registration

- (1) A supplier, or a person who proposes to be a supplier, may apply to the Director in the specified form for either—
 - (a) an ordinary registration; or
 - (b) a short-term registration.
- (2) The applicant may, by giving the Director notice in writing, withdraw the application at any time before it is determined.
- (3) If, before the application is withdrawn or determined, a change in the information provided to the Director for the application occurs, the applicant must, as soon as reasonably practicable after the change occurs, give the Director notice of the change in writing.
- (4) The Director may, by giving the applicant notice in writing, require the applicant to provide further information and documents for the application.

5. Requirements for application

- (1) For both an ordinary registration and a short-term registration, the requirements for an application for the purposes of section 33(b) of the Ordinance are that—

- (a) the application must be made in the specified form;
 - (b) the applicant must comply with section 4(3), and any notice given under section 4(4);
 - (c) the applicant must be a supplier, or will become a supplier, according to the information provided for the application;
 - (d) the information so provided must be correct and must not be misleading; and
 - (e) if the applicant has already had an ordinary registration approved—the registration must have been cancelled.
- (2) In addition to the requirements in subsection (1), for a short-term registration (*intended short-term registration*), the requirements for an application for the purposes of section 33(b) of the Ordinance are that the following criteria must be met—
- (a) should the application be approved, the applicant's business of distributing regulated electrical equipment under the intended short-term registration—
 - (i) would be likely to operate for not more than 30 days; and
 - (ii) would be likely to give rise to the liability to pay a recycling levy not exceeding \$20,000 under section 37(1) of the Ordinance; and
 - (b) if the applicant has already had one or more than one recent short-term registration approved—should the application for the intended short-term registration be approved, the applicant's business of distributing regulated electrical equipment under all of the latest short-term registrations would be likely to give rise to an

- aggregate liability to pay recycling levies not exceeding \$20,000 under section 37(1) of the Ordinance.
- (3) For the purposes of this section, a short-term registration is a recent short-term registration if its ending date or cancellation date falls within 12 months before the date of the application for the intended short-term registration.
 - (4) In subsection (2)(b)—
latest short-term registration (最近短期登記) means—
 - (a) a recent short-term registration; or
 - (b) the intended short-term registration.

6. Application approved

- (1) If an application is approved, the Director must issue a certificate of registration to the applicant and specify in the certificate—
 - (a) a registration number assigned by the Director for the registration;
 - (b) the date on which the registration becomes effective;
 - (c) an annual audit date for the preparation of audit reports under section 39 of the Ordinance;
 - (d) for an ordinary registration—the first cut-off date for the preparation of returns; and
 - (e) for a short-term registration—the date on which the registration ceases to have effect.
- (2) The first cut-off date for an ordinary registration must fall on 31 March, 30 June, 30 September or 31 December.
- (3) The ending date for a short-term registration must fall within 30 days after the registration date.

7. Application refused

- (1) If an application is refused, the Director must—
 - (a) give the applicant notice in writing of the decision; and
 - (b) include in the notice a statement setting out the reasons for the decision.
- (2) If the Director intends to refuse the application, the Director must—
 - (a) give the applicant notice in writing of the intention and the reasons for the intention; and
 - (b) give the applicant an opportunity to make representations.

Division 2—Change of Address after Registration

8. Notice of change of address

- (1) If the address of a registered supplier provided to the Director for an application made under section 4(1) has changed, the supplier must give the Director notice of the change in the specified form within 30 days after the date on which the change occurs.
- (2) A registered supplier who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.

Division 3—Obligations and Related Matters

Subdivision 1—Recycling Labels

9. Provision of recycling labels

- (1) This section applies if a registered supplier who distributes any regulated electrical equipment to a person provides a

- recycling label to the person for the equipment under section 35(1) of the Ordinance.
- (2) The label must be provided not later than the taking of actual possession of the regulated electrical equipment by the person.
- (3) ~~To avoid doubt, The registered supplier may provide~~ the label ~~is not required to be provided~~ by affixing it ~~onto~~ to the regulated electrical equipment or otherwise.

Subdivision 2—Returns

10. Form of returns

A return must be submitted to the Director in the specified form.

11. Coverage of returns

- (1) A return submitted in respect of an ordinary registration must be submitted—
 - (a) in the case of the first return—for the period beginning on the registration date and ending on the first cut-off date; or
 - (b) in the case of a further return—for each quarter ending on 31 March, 30 June, 30 September or 31 December.
- (2) A return submitted in respect of a short-term registration must be submitted for the period beginning on the registration date and ending on the ending date.
- (3) However—
 - (a) if the registration is cancelled during the period mentioned in subsection (1)(a), the reference to “first cut-off date” in that subsection is to be construed as a reference to “cancellation date”;

- (b) if the registration is cancelled during a quarter mentioned in subsection (1)(b), that quarter is deemed to end on the cancellation date; and
- (c) if the registration is cancelled during the period mentioned in subsection (2), the reference to “ending date” in that subsection is to be construed as a reference to “cancellation date”.

12. Meaning of *reporting period*

In this Regulation—

reporting period (申報期)—

- (a) in relation to a return submitted in accordance with section 11(1)(a), means the period mentioned in that section, as modified by section 11(3)(a) if applicable;
- (b) in relation to a return submitted in accordance with section 11(1)(b), means the quarter mentioned in that section, as modified by section 11(3)(b) if applicable; or
- (c) in relation to a return submitted in accordance with section 11(2), means the period mentioned in that section, as modified by section 11(3)(c) if applicable.

13. Timing of returns

Subject to section 46(1), a return must be submitted within 28 days after the last day of each reporting period.

14. Content of returns

- (1) A return must contain, in relation to each class of recycling labels—
 - (a) the number of recycling labels possessed by the registered supplier when the reporting period began;

- (b) the number of recycling labels obtained by the registered supplier under section 36(1) of the Ordinance during the reporting period;
 - (c) the number of recycling labels otherwise obtained by the registered supplier during the reporting period;
 - (d) the number of recycling labels provided by the registered supplier under section 35(1) of the Ordinance during the reporting period;
 - (e) the number of recycling labels otherwise transferred by the registered supplier during the reporting period;
 - (f) the number of recycling labels damaged or lost during the reporting period; and
 - (g) the number of recycling labels left unused when the reporting period ended.
- (2) A return must also contain, in relation to each class of regulated electrical equipment—
 - (a) the number of such equipment that was distributed by the registered supplier in Hong Kong during the reporting period, with a breakdown of—
 - (i) the number of such equipment that meets the description of section 37(1)(a)(i) of the Ordinance; and
 - (ii) the number of such equipment that meets the description of section 37(1)(a)(ii) of the Ordinance; and
 - (b) the number of such equipment that was used for the first time by the registered supplier in Hong Kong during the reporting period, with a breakdown of—

- (i) the number of such equipment that meets the description of section 37(1)(a)(i) of the Ordinance; and
- (ii) the number of such equipment that meets the description of section 37(1)(a)(ii) of the Ordinance.

Subdivision 3—Records and Documents Relating to Returns

15. Record keeping

- (1) This section applies to the keeping of records and documents under section 38(4) of the Ordinance.
- (2) The registered supplier must keep records, invoices, receipts, delivery notes, inventory records or any other documents that contain sufficient details to enable the Director to readily verify the matters mentioned in subsection (3) in relation to a return.
- (3) The matters are—
 - (a) in relation to each class of recycling labels—
 - (i) the number of recycling labels possessed by the registered supplier when the reporting period began;
 - (ii) the number of recycling labels obtained by the registered supplier under section 36(1) of the Ordinance during the reporting period;
 - (iii) the number of recycling labels otherwise obtained by the registered supplier during the reporting period;
 - (iv) the number of recycling labels provided by the registered supplier under section 35(1) of the Ordinance during the reporting period;

- (v) the number of recycling labels otherwise transferred by the registered supplier during the reporting period;
 - (vi) the number of recycling labels damaged or lost during the reporting period; and
 - (vii) the number of recycling labels left unused when the reporting period ended; and
- (b) in relation to each class of regulated electrical equipment—
 - (i) the number of such equipment that was distributed by the registered supplier in Hong Kong during the reporting period;
 - (ii) the number of such equipment that was used for the first time by the registered supplier in Hong Kong during the reporting period;
 - (iii) the number of such equipment that was exported by the registered supplier out of Hong Kong during the reporting period; and
 - (iv) among the equipment mentioned in each of subparagraphs (i), (ii) and (iii)—
 - (A) the number of such equipment that meets the description of section 37(1)(a)(i) of the Ordinance;
 - (B) the number of such equipment that meets the description of section 37(1)(a)(ii) of the Ordinance; and
 - (C) the number of such equipment that does not meet the description of section 37(1)(a)(i), or section 37(1)(a)(ii), of the Ordinance.

Subdivision 4—Audit Reports

16. Application of Subdivision 4

This Subdivision applies to the submission of audit reports under section 39(1) of the Ordinance.

17. Interpretation

(1) In this Subdivision—

annual audit date (周年審計日), in relation to a registration, means the date specified for the registration under section 6(1)(c);

auditor (核數師), in relation to an audit report, means the person who prepares the report under section 39(2) of the Ordinance.

(2) In this Subdivision, a reference to an audit year is, subject to subsection (3), a reference to the period of 12 months ending on an annual audit date.

(3) If the registration is cancelled during the period of 12 months ending on a particular annual audit date, a reference to an audit year is, in relation to that annual audit date, a reference to—

- (a) if that annual audit date is the first annual audit date for the registration—the period beginning on the registration date and ending on the cancellation date; or
- (b) if that annual audit date is not the first annual audit date for the registration—the period beginning on the date immediately after the last preceding annual audit date, and ending on the cancellation date.

18. Coverage of audit reports

An audit report must cover a return if the reporting period of the return falls within the relevant audit year.

19. Timing of audit reports

Subject to section 46(1), an audit report must be submitted within 3 months after the last day of each audit year.

20. Content of audit reports

(1) The auditor must state in the audit report whether, in the opinion of the auditor and in relation to any return covered by the report, the following statements are true—

- (a) the registered supplier had kept records and documents in accordance with section 38(4) of the Ordinance, and in accordance with section 15;
- (b) the return had been prepared in accordance with those records and documents; and
- (c) the quantities of regulated electrical equipment reported in the return had been reported in accordance with the Ordinance.

(2) If the auditor identifies any discrepancy between a return covered by the audit report and the records and documents kept for the return as mentioned in subsection (1)(a) in relation to any quantity of regulated electrical equipment, the auditor must set out the discrepancy in a document in the specified form.

(3) If a discrepancy list has been prepared for an audit report in accordance with subsection (2), the registered supplier must, in submitting the report, attach a copy of the discrepancy list to the report.

21. Exemption from submission of audit reports

(1) A registered supplier may apply to the Director in writing for exemption from submitting an audit report for a particular audit year.

- (2) Subject to section 46(1), the application must be made within 1 month after the last day of the relevant audit year.
- (3) The Director must approve the application if—
 - (a) for an ordinary registration—
 - (i) the reporting periods falling within the relevant audit year cover less than 12 months in total; and
 - (ii) the Director is satisfied that the aggregate recycling levies payable for the reporting periods do not exceed \$20,000; or
 - (b) for a short-term registration—the Director is satisfied that the recycling levy payable for the reporting period does not exceed \$20,000.

Subdivision 5—Recycling Levies

22. Prescribed amount

- (1) For the purposes of Division 3 of Part 4 of the Ordinance, an amount of recycling levy per item of regulated electrical equipment for each class of such equipment is set out in Schedule 1.
- (2) A term specified in column 2 of Schedule 1 has the same meaning as it has in Schedule 6 to the Ordinance.

23. Payment on payment notice

- (1) This section applies to the payment of recycling levy under section 38(3) of the Ordinance.
- (2) The payment must be made within 30 days after the day on which the payment notice was served on the registered supplier under section 38(2)(b) of the Ordinance.
- (3) The payment must be made in accordance with the payment instructions contained in the payment notice.

24. Payment on assessment notice

- (1) This section applies to the payment under section 40(9) of the Ordinance of an amount of recycling levy demanded under an assessment notice.
- (2) The payment must be made—
 - (a) if the assessment notice has not been replaced under section 40(5) of the Ordinance—within 30 days after the day on which the notice was served on the relevant person under section 40(4) of the Ordinance; or
 - (b) if the assessment notice has been replaced with another assessment notice under section 40(5) of the Ordinance—within 30 days after the day on which the other notice was served on the relevant person under that section.
- (3) The payment must be made in accordance with the payment instructions contained in the assessment notice.
- (4) In subsection (2)—
relevant person (有關人士) means the relevant person mentioned in section 40 of the Ordinance.

25. Adjustment of payable amount with reference to discrepancy list

- (1) This section applies if a registered supplier has submitted an audit report under section 39(1) of the Ordinance with a discrepancy list attached in relation to a return (**reported return**) in accordance with section 20(3).
- (2) In determining the amount of recycling levy payable for the first subsequent return (if any), the Director may, with reference to the discrepancy list mentioned in subsection (1), adjust the amount so as to offset any amount of recycling levy that has been or will be overpaid or unpaid by the registered

supplier for the reported return as a result of a discrepancy set out on the discrepancy list.

(3) In subsection (2)—

first subsequent return (其後首份申報) means the first return submitted by the registered supplier after the supplier has submitted the audit report as mentioned in subsection (1).

26. Refund of overpaid amount

(1) This section applies if a person has paid an amount of money to the Director for compliance with section 37(1) of the Ordinance.

(2) The person may lodge a written claim with the Director for refund of any overpaid recycling levy paid by the person.

(3) The claim must be accompanied by evidence of the claimant's entitlement to the refund.

(4) For the purposes of subsection (3), an audit report submitted under section 39(1) of the Ordinance with a discrepancy list attached in accordance with section 20(3) is evidence of a discrepancy set out on the discrepancy list unless the contrary is proved.

(5) On receiving the claim, the Director must refund any overpaid recycling levy to the claimant if the Director is satisfied that—

(a) the claimant is entitled to the refund; and

(b) the overpaid recycling levy is not recoverable by the claimant by the operation of section 25.

(6) In this section—

overpaid recycling levy (超額徵費) means an amount of money that was paid by a person as mentioned in subsection (1) in excess of the amount that was payable by the person.

Part 3

Matters Related to Sellers

Division 1—Recycling Labels and Receipts

27. Provision of recycling labels

- (1) This section applies if a seller provides a recycling label to a consumer for any regulated electrical equipment under section 35(2)(a) of the Ordinance.
- (2) The label must be provided not later than the taking of actual possession of the regulated electrical equipment by the consumer.
- (3) ~~To avoid doubt, the label is not required to be provided~~ The seller may provide the label ~~is not required to be provided~~ by affixing it ~~onto~~ to the regulated electrical equipment or otherwise.

28. Provision of receipts

- (1) This section applies if a seller provides a receipt to a consumer for any regulated electrical equipment under section 35(2)(b) of the Ordinance.
- (2) The receipt—
 - (a) may be provided in either paper or electronic form; and
 - (b) must contain the wording, in both the English and the Chinese languages, set out in Schedule 2.
- (3) The receipt must be provided not later than—
 - (a) the making of any payment for the regulated electrical equipment by the consumer; or
 - (b) the taking of actual possession of the equipment by the consumer,

whichever is the later.

Division 2—~~Arrangement for~~ Removal Services

Subdivision 1—Endorsement of Removal Service Plan

29. Application of Subdivision 1

This Subdivision applies to the endorsement of a plan as a removal service plan under section 41(1) of the Ordinance.

30. Application for endorsement of plan

- (1) A seller, or a person who proposes to be a seller, may apply to the Director in the specified form for the endorsement.
- (2) The applicant may, by giving the Director notice in writing, withdraw the application at any time before it is determined.
- (3) If, before the application is withdrawn or determined, a change in the information provided to the Director for the application occurs, the applicant must, as soon as reasonably practicable after the change occurs, give the Director notice of the change in writing.
- (4) The Director may, by giving the applicant notice in writing, require the applicant to provide further information and documents for the application.

31. Requirements under section 41(3)(c) of Ordinance

- (1) The following requirements are the requirements under section 41(3)(c) of the Ordinance—
 - (a) the plan to be endorsed—
 - (i) must not specify more than ~~53~~ collectors; ~~and~~

- (ii) must specify 1 collector who meets the requirement specified in subsection (2) as a default collector; and
 - (iii) must indicate in the specified form whether the seller will provide a removal service in case none of the collectors specified in the plan is able and willing to provide the service; and
 - (b) the undertaking under section 41(3)(a) or (b) of the Ordinance must be made in the specified form.
- (2) The requirement mentioned in subsection (1)(a)(ii) is that, as part of the plan, the collector undertakes to the seller in the specified form—
- (a) to provide removal services in respect of every particular class of regulated electrical equipment distributed by the applicant; and
 - (b) to provide the services on any premises in Hong Kong.
- (3) Subsections (1)(b) and (2) do not prevent parties to the undertakings from incorporating any mutually agreed terms and conditions into the undertakings.
- (4) In subsection (1)(a)(ii)—

default collector (預定收集者) means the first collector whom the seller is to approach for arranging for a removal service on a consumer's request.

32. Other grounds of refusal

- (1) The other grounds on which the Director may refuse to endorse a plan as mentioned in section 41(2) of the Ordinance are specified in subsection (2).
- (2) The Director may refuse to endorse a plan if the Director is satisfied that—

- (a) the endorsement application has not been made in the specified form;
- (b) the applicant has not complied with section 30(3), or any notice given under section 30(4);
- (c) the applicant is not a seller, or will not become a seller, according to the information provided for the application;
- (d) the information so provided is incorrect or misleading;
- (e) the plan is impracticable; ~~or~~
- (f) the applicant has already had a plan endorsed; or
- (g) the applicant will not be able to cause the electrical equipment or electronic equipment removed by the applicant in accordance with the plan to be properly treated, reprocessed or recycled.

33. Application approved

If an endorsement application is approved, the Director must give the applicant notice in writing of—

- (a) the decision; and
- (b) the date of endorsement.

34. Application refused

- (1) If an endorsement application is refused, the Director must—
 - (a) give the applicant notice in writing of the decision; and
 - (b) include in the notice a statement setting out the reasons for the decision.
- (2) If the Director intends to refuse the application, the Director must—
 - (a) give the applicant notice in writing of the intention and the reasons for the intention; and

- (b) give the applicant an opportunity to make representations.

Subdivision 2—Change to Removal Service Plan

35. Application for change to removal service plan

- (1) No change may be made to a removal service plan of a seller unless the seller applies to the Director in the specified form for approval to do so.
- (2) Subject to section 38, the application must be made at least 30 days before the day on which the change is proposed to take effect.
- (3) On receiving the application, the Director must give the applicant notice in writing of the date of receipt of application.
- (4) The applicant may, by giving the Director notice in writing, withdraw the application at any time—
 - (a) before the expiry of 30 days after the date of receipt of application; or
 - (b) before a notice is given under section 37(4), whichever is the earlier.
- (5) The Director may, by giving the applicant notice in writing, require the applicant to provide further information and documents for the application.
- (6) Section 71(1)(b) of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply to the period of 30 days under subsection (4)(a).
- (7) In subsection (1)—
seller (銷售商) includes a person who proposes to be a seller.

36. Changing information regarded as making fresh application

- (1) If, before an application made under section 35(1) (*original application*) is withdrawn or determined, a change in the information provided to the Director for the original application occurs, the applicant must, as soon as reasonably practicable after the change occurs, give the Director notice of the change in writing.
- (2) If a notice is given under subsection (1)—
 - (a) the applicant is taken to make a fresh application under section 35(1); and
 - (b) the original application is taken to be withdrawn.

37. Determination of application

- (1) An application under section 35(1) is taken to be approved by the Director on the expiry of 30 days after the date of receipt of application unless the application has been approved or refused before the expiry.
- (2) The Director must refuse the application if the Director is satisfied that the removal service plan would no longer meet a certain requirement specified in section 41(3) of the Ordinance should the proposed change be incorporated into the plan.
- (3) The Director may also refuse the application if the Director is satisfied that—
 - (a) the application has not been made in the specified form;
 - (b) the applicant has not complied with section 35(2) or 36(1), or any notice given under section 35(5);
 - (c) the applicant is not a seller, or will not become a seller, according to the information provided for the application;

- (d) the information so provided is incorrect or misleading;
or
 - (e) the removal service plan would become impracticable should the proposed change be incorporated into the plan.
- (4) If the application is refused, the Director must—
- (a) give the applicant notice in writing of the decision within 30 days after the date of receipt of application; and
 - (b) include in the notice a statement setting out the reasons for the decision.
- (5) Section 71(1)(b) of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply to the period of 30 days under subsection (4)(a).

38. Exemption from section 35(2)

- (1) This section applies if a seller makes a change application.
- (2) The seller may apply to the Director for exemption from section 35(2).
- (3) An exemption application must be made in the specified form in conjunction with the change application.
- (4) The Director may approve the exemption application if the Director is satisfied that it is reasonable to do so in the circumstances of the case.
- (5) In this section—

change application (更改申請) means an application under section 35(1);

exemption application (豁免申請) means an application under subsection (2);

seller (銷售商) includes a person who proposes to be a seller.

Subdivision 3—Requests for Removal Services

39. Interpretation

In this Subdivision—

distributed equipment (獲分發電器), in relation to a request for a removal service made by a consumer as mentioned in paragraph (b) of section 42(2) of the Ordinance, means the item of regulated electrical equipment distributed to the consumer as mentioned in paragraph (a) of that section;

distribution transaction (分發交易) means a transaction in which distributed equipment is distributed by a seller.

40. Requests for removal services

~~(1)~~ A request for a removal service must be made—

- (a) in the manner specified by the seller; and
- (b) ~~before the expiry of within the 3 days after the consumer takes actual possession of the distributed equipment the consumer enters into the distribution transaction with the seller.~~

~~(2) Subsection (1)(b) does not prevent the consumer from making the request before taking actual possession of the distributed equipment.~~

41. Record keeping

- (1) The seller must, for the prescribed period, keep a record of each request for a removal service.
- (2) Subject to subsection (3), the record must contain the following information—
 - (a) information that enables the identification of the distribution transaction ~~in which the distributed~~

- ~~equipment was distributed~~ (for example, a transaction number);
- (b) the times at which the request was made and received;
 - (c) the manners in which the request was made and received;
 - (d) proof that the actual ~~removercollector~~ had been informed of the address of the premises from which the pre-existing equipment was to be removed;
 - (e) the date of collection of the pre-existing equipment as agreed by the actual ~~removercollector~~;
 - (f) if the actual ~~removercollector~~ was not a collector other than the default collector—the default collector’s written confirmation that the default collector was unable or unwilling to provide the requested service, and the reasons;

(g) if the actual remover was the seller—a written confirmation by each collector specified in the removal service plan that the collector was unable or unwilling to provide the requested service, and the reasons.

- (3) If any information mentioned in subsection (2) is unavailable, that subsection is taken to be complied with if the record contains an indication of that fact.
- (4) A person who, without reasonable excuse, contravenes this section commits an offence and is liable on conviction to a fine at level 2.
- (5) In this section—

actual ~~removercollector~~ (實際收集除舊者) means—

- (a) the collector who actually provides—the a removal service; or
- (b) if a seller provides the service—the seller;

default collector (預定收集者) has the meaning given by section 31(4);

pre-existing equipment (現有電器), in relation to a request for a removal service, means the item of electrical equipment or electronic equipment to be removed on that request;

prescribed period (訂明期間) means the period—

- (a) beginning at the time when the distribution transaction is madeconsumer takes actual possession of the distributed equipment; and
- (b) ending on the expiry of 1 year after the day on which the distribution transaction is madeconsumer takes actual possession of the distributed equipment.

Part 4

Miscellaneous

Division 1—Specified Forms

42. Director may specify forms

The Director may specify any forms required for the purposes of the Ordinance.

43. General requirements

- (1) For the purposes of section 36(1) of the Ordinance, and this Regulation, a specified form may require that—
 - (a) it be completed in a specified way;
 - (b) specified information or documents be included in or attached to it; and
 - (c) it be submitted in a specified manner.
- (2) If a certain requirement under subsection (1) is not complied with for making an application under section 36(1) of the Ordinance or under this Regulation, the application is to be treated as not made in the specified form.
- (3) If a certain requirement under subsection (1) is not complied with for submitting a return under this Regulation, the return is to be treated as not submitted in the specified form.
- (4) The Director must make copies of a specified form available—
 - (a) during office hours at the office of the Director; or
 - (b) through any other means that the Director considers appropriate.

44. Electronic records as specified forms

- (1) If the Director specifies an electronic record as a specified form, the requirement for a signature in the form is satisfied by a password assigned or approved under subsection (2).
- (2) The Director may, for enabling a person to use an electronic record as a specified form, from time to time assign or approve any sequence or combination of letters, characters, numbers or symbols as the person's password.

Division 2—Other Matters

45. Right of appeal to Appeal Board

- (1) The following decisions are appealable matters for the purposes of section 13(2) of the Ordinance—
 - (a) refusal of an application made under section 33 of the Ordinance;
 - (b) cancellation of a registration;
 - (c) refusal of an application under section 36(2) of the Ordinance;
 - (d) refusal to grant an exemption applied for under section 21(1);
 - (e) service of a payment notice under section 38(2)(b) of the Ordinance;
 - (f) service of an assessment notice under section 40(4) or (5) of the Ordinance;
 - (g) refusal of a claim lodged under section 26(2);
 - (h) refusal to endorse a plan under section 41(2) of the Ordinance, or under section 32(2);
 - (i) refusal of an application under section 37(2) or (3);

(j) refusal to grant an exemption applied for under section 38(2).

(2) If an appeal is made under section 13 of the Ordinance against a decision specified in subsection (1), the appeal does not affect the operation of the decision pending the determination of the appeal unless the Director decides otherwise.

46. Extension of periods

(1) If the last day on which a specified act may be done falls on an excluded day, the act is considered as done if it is done on the next following day, not being an excluded day.

(2) In subsection (1)—

excluded day (豁除日) means—

- (a) a Saturday;
- (b) a general holiday; or
- (c) a gale warning day, or black rainstorm warning day, as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);

specified act (指明作為) means—

- (a) the submission of a return in accordance with section 13;
- (b) the submission of an audit report in accordance with section 19; or
- (c) the making of an application in accordance with section 21(2).

Schedule 1

[s. 22 & Sch. 2]

Amount of Recycling Levy

Column 1	Column 2	Column 3
Item	Class of regulated electrical equipment	Amount of recycling levy per item of equipment
1.	Air conditioner	\$125
2.	Refrigerator	\$165
3.	Washing machine	\$125
4.	Television	\$165
5.	Computer	\$15
6.	Printer	\$15
7.	Scanner	\$15
8.	Monitor	\$45

Schedule 2

[s. 28]

Wording Contained in Receipts

本收據所列的產品，是《產品環保責任條例》(第 603 章)所指的受管制電器。該條例就該產品徵收下列循環再造徵費：

[適用的受管制電器類別]：每部
\$[附表 1 訂明的徵費額]

Example—

本收據所列的產品，是《產品環保責任條例》(第 603 章)所指的受管制電器。該條例就該產品徵收下列循環再造徵費：

空調機：每部\$125

洗衣機：每部\$125

電視機：每部\$165

A product set out in this receipt is regulated electrical equipment under the Product Eco-responsibility Ordinance (Cap. 603). The Ordinance imposes a recycling levy on the product as follows:

[Applicable class of regulated electrical equipment]: \$[Amount of levy as prescribed in Schedule 1] per item

A product set out in this receipt is regulated electrical equipment under the Product Eco-responsibility Ordinance (Cap. 603). The Ordinance imposes a recycling levy on the product as follows:

Air conditioner: \$125 per item

Washing machine: \$125 per item

Television: \$165 per item

Secretary for the Environment

2017

Explanatory Note

The Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Ordinance 2016 (3 of 2016) amends, among other legislation, the Product Eco-responsibility Ordinance (Cap. 603) (*parent Ordinance*) to implement a mandatory producer responsibility scheme on certain electrical equipment and electronic equipment. The new section 44 of the parent Ordinance empowers the Secretary for the Environment to make regulations for the implementation of the scheme. This Regulation is a regulation made under that section.

2. This Regulation provides for—
 - (a) matters related to registered suppliers, including the registration of suppliers, provision of recycling labels, submission of returns, keeping of records and documents, submission of audit reports, and payment of recycling levies;
 - (b) matters related to sellers, including the provision of recycling labels and receipts, endorsement of and change to removal service plans, and requests for removal services; and
 - (c) the better carrying out of the provisions and purposes of the parent Ordinance.