

Product Eco-responsibility (Amendment) Bill 2023

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# A BILL

## To

Amend the Product Eco-responsibility Ordinance and its subsidiary legislation to refine the existing producer responsibility schemes for electrical and electronic equipment and containers of certain products; to extend the scheme for electrical and electronic equipment to new classes of equipment; to prohibit the manufacture, supply or display of certain plastic products; to provide for a fixed penalty for the offence of contravening the prohibition; and to provide for related matters.

Enacted by the Legislative Council.

## Part 1

### Preliminary

#### 1. Short title and commencement

- (1) This Ordinance may be cited as the Product Eco-responsibility (Amendment) Ordinance 2023.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Environment and Ecology by notice published in the Gazette.

**2. Enactments amended**

The enactments specified in Parts 2 to 5 are amended as set out in those Parts.

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## **Part 2**

### **Amendments to Product Eco-responsibility Ordinance (Cap. 603) relating to Service of Notices**

#### **3. Part 2A added**

After Part 2—

**Add**

#### **“Part 2A**

#### **Service of Notices under Parts 4 and 5**

##### **16A. Application of Part 2A**

This Part applies in relation to regulated electrical equipment and regulated articles.

##### **16B. Service of notices under Parts 4 and 5**

- (1) A notice required, or authorized, to be served on a person under Part 4 or 5 is to be regarded as duly served on the person if—
  - (a) it is sent by post—
    - (i) if the person is a registered supplier—to the last address provided by the person to the Director; or
    - (ii) otherwise—to the person’s address last known to the Director;
  - (b) it is sent by facsimile transmission—

- (i) if the person is a registered supplier—to the last facsimile number provided by the person to the Director; or
    - (ii) otherwise—to the person's facsimile number last known to the Director;
  - (c) it is sent by electronic mail—
    - (i) if the person is a registered supplier—to the last electronic mail address provided by the person to the Director; or
    - (ii) otherwise—to the person's electronic mail address last known to the Director; or
  - (d) where the person has registered an account with an electronic system designated under section 16C(1)—it is sent to the account by means of the system.
- (2) For the purposes of subsection (1)(b), (c) or (d), a notice is to be regarded as having been sent by the means of transmission specified in that subsection if a record generated by the means establishes that the notice was so sent.
- (3) In subsection (1)—
- registered supplier*** (登記供應商) means a registered supplier as defined by section 31 or 47.

## **16C. Designation of electronic system**

- (1) The Director may, for the purposes of section 16B(1)(d), designate an electronic system.
- (2) The Director must, as soon as practicable after designating an electronic system under subsection (1), publish the details of the designation in a way that the Director considers appropriate.”

- 
4. **Section 38 amended (registered supplier must submit returns)**  
Section 38—  
**Repeal subsection (8).**
  5. **Section 40 amended (recovering recycling levies by assessment notice)**  
Section 40—  
**Repeal subsection (14).**
  6. **Section 52 amended (registered supplier must submit returns)**  
Section 52—  
**Repeal subsection (8).**
  7. **Section 54 amended (recovering container recycling levy by assessment notice)**  
Section 54—  
**Repeal subsection (14).**
-

## Part 3

### Amendments relating to New Regulated Electrical Equipment

#### Division 1—Amendments to Product Eco-responsibility Ordinance (Cap. 603)

8. **Section 3 amended (interpretation)**

Section 3(1), definition of *regulated electrical equipment*, paragraph (a)—

**Repeal**

everything after “column 2 of”

**Substitute**

“Part 1 of Schedule 6 and is defined in column 3 of that Part; and”.

9. **Section 42 amended (seller must arrange for removal service)**

Section 42(2)(c), after “column 2 of”—

**Add**

“Part 1 of”.

10. **Schedule 6 amended (regulated electrical equipment to which this Ordinance applies)**

(1) Schedule 6, after the heading—

**Add**

## **“Part 1**

### **Regulated Electrical Equipment”.**

- (2) Schedule 6, Part 1, item 2, after “(Cap. 598)” —

**Add**

“(subject to the substitution of “900 litres” in section 1(c)(iii) of that Division for “500 litres”)”.

- (3) Schedule 6, Part 1, item 3, after “(Cap. 598)” —

**Add**

“(subject to the substitution of “15 kilograms” in section 1(b)(ii) of that Division for “10 kilograms”)”.

- (4) Schedule 6, Part 1, after item 8 —

**Add**

“9. Tumble dryer A household appliance —

- (a) in which textiles are dried by tumbling in a rotating drum; and

- (b) that —

- (i) uses mains electricity as the only power source for heating; and

- (ii) has a rated drying capacity not exceeding 15 kilograms.



10. Dehumidifier A dehumidifier within the descriptions in Division 5 of Part 2 of Schedule 1 to the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598).”.
- (5) Schedule 6, after Part 1—  
**Add**

## “Part 2

### Supplementary Provisions

#### 1. Interpretation

In this Schedule—

***mains electricity*** (市電) means the electricity that is supplied in Hong Kong at a voltage of 380/220V and a frequency of 50 Hz;

***rated drying capacity*** (額定乾衣量), in relation to a household appliance, means the maximum weight of dry textiles, in kilograms, that the household appliance can treat in each drying operation as specified in any material published by the manufacturer or importer of the appliance for the purpose of selling the appliance in Hong Kong.”.

### Division 2—Amendments to Product Eco-responsibility (Regulated Electrical Equipment) Regulation (Cap. 603 sub. leg. B)

11. Schedule 1 amended (amount of recycling levy)  
Schedule 1, after item 8—

**Add**

“9. Tumble dryer \$125

10. Dehumidifier \$125”.

**12. Schedule 2 amended (wording contained in receipts)**

- (1) Schedule 2, Chinese version, after “該產品” (wherever appearing)—

**Add**

“所屬的受管制電器類別下的每件受管制電器，”.

- (2) Schedule 2, English version—

**Repeal**

“the product” (wherever appearing)

**Substitute**

“an item of regulated electrical equipment for the class of such equipment to which the product belongs”.

**Division 3—Related Amendments to Waste Disposal  
Ordinance (Cap. 354)**

**13. Section 2 amended (interpretation)**

Section 2(1), definition of *e-waste*, after “column 2 of”—

**Add**

“Part 1 of”.

**14. Section 18 amended (penalties for offences under sections 16, 16A, 16B, 16C and 17 and defences)**

Section 18(4), after “column 3 of”—

**Add**

“Part 1 of”.

**15. Section 20G amended (defence of due diligence, etc.)**

Section 20G(5), after “column 3 of”—

**Add**

“Part 1 of”.

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## **Part 4**

### **Amendments relating to Recycling Labels etc.**

#### **Division 1—Amendments to Product Eco-responsibility Ordinance (Cap. 603)**

- 16. Section 31 amended (interpretation of Part 4)**  
Section 31—  
**Repeal the definition of *recycling label*.**
- 17. Section 35 amended (recycling label and receipt must be provided when distributing regulated electrical equipment)**  
(1) Section 35, heading—  
**Repeal**  
**“Recycling label and receipt”**  
**Substitute**  
**“Receipt”.**  
(2) Section 35—  
**Repeal subsections (1) and (2)(a).**  
(3) Section 35(3), (4) and (5)—  
**Repeal**  
**“(1) or”.**
- 18. Section 36 repealed (Director must provide recycling labels)**  
Section 36—  
**Repeal the section.**

**19. Part 4, Division 3A heading added**

Before section 40—

**Add**

**“Division 3A—Recovery of Recycling Levies”.**

**20. Section 44 amended (Secretary may make regulations for Part 4)**

Section 44(1)—

**Repeal paragraph (c).**

**21. Part 4, Division 7 added**

Part 4, after Division 6—

**Add**

**“Division 7—Savings and Transitional Provisions**

**46A. Savings and transitional provisions relating to Product Eco-responsibility (Amendment) Ordinance 2023**

Schedule 9 provides for the savings and transitional arrangements relating to the Product Eco-responsibility (Amendment) Ordinance 2023 ( of 2023).”.

**22. Schedule 9 added**

After Schedule 8—

**Add**

## “Schedule 9

[s. 46A]

### **Savings and Transitional Provisions relating to Product Eco-responsibility (Amendment) Ordinance 2023**

#### **1. Interpretation**

In this Schedule—

***Amendment Ordinance*** (《修訂條例》) means the Product Eco-responsibility (Amendment) Ordinance 2023 ( of 2023);

***appointed date*** (指定日期) means the commencement date of Part 4 of the Amendment Ordinance;

***pre-amended Regulation*** (《原有規例》) means the REE Regulation as in force immediately before the appointed date;

***REE Regulation*** (《受管制電器規例》) means the Product Eco-responsibility (Regulated Electrical Equipment) Regulation (Cap. 603 sub. leg. B);

***registered supplier*** (登記供應商) has the meaning given by section 31.

#### **2. Returns to be submitted under section 38(1)**

(1) This section applies in relation to a return submitted by a registered supplier under section 38(1) if the return is submitted—

(a) in accordance with section 11 of the REE Regulation for a period beginning on a date before the appointed date; and

- (b) after the appointed date.
  - (2) The return must contain the information specified in section 14 of the pre-amended Regulation as if section 14(1) of the pre-amended Regulation had not been repealed by the Amendment Ordinance.
  - (3) For all purposes of this Ordinance, the return is not considered as submitted in accordance with the REE Regulation if subsection (2) is not complied with.
- 3. Records to be kept under section 38(4): returns submitted before appointed date**
  - (1) This section applies to a registered supplier who has, before the appointed date, submitted under section 38(1) a return in respect of a period in a calendar year.
  - (2) The registered supplier must keep the records and documents prescribed by section 15 of the pre-amended Regulation relating to the return during the 5 years after that calendar year as if section 15(3)(a) of the pre-amended Regulation had not been repealed by the Amendment Ordinance.
  - (3) For all purposes of this Ordinance as regards the return—
    - (a) the records and documents required to be kept under subsection (2) are regarded as records and documents relating to the return prescribed under section 15 of the REE Regulation; and
    - (b) a reference to keeping records and documents in accordance with section 15 of the REE Regulation is a reference to keeping records and documents in accordance with subsection (2).

**4. Records to be kept under section 38(4): returns submitted after appointed date**

- (1) This section applies to a registered supplier who has, after the appointed date, submitted under section 38(1) a return in relation to which section 2 of this Schedule applies and the return is submitted in respect of a period in a calendar year.
- (2) The registered supplier must keep the records and documents prescribed by section 15 of the pre-amended Regulation relating to the return during the 5 years after that calendar year as if section 15(3)(a) of the pre-amended Regulation had not been repealed by the Amendment Ordinance.
- (3) For all purposes of this Ordinance as regards the return—
  - (a) the records and documents required to be kept under subsection (2) are regarded as records and documents relating to the return prescribed under section 15 of the REE Regulation; and
  - (b) a reference to keeping records and documents in accordance with section 15 of the REE Regulation is a reference to keeping records and documents in accordance with subsection (2).”.

**Division 2—Amendments to Product Eco-responsibility (Regulated Electrical Equipment) Regulation (Cap. 603 sub. leg. B)****23. Section 2 amended (interpretation)**

- (1) Section 2—

**Repeal subsection (2).**



(2) Section 2(3)—

**Repeal**

“*recycling label* (循環再造標籤);”.

**24. Part 2, Division 3, Subdivision 1 repealed (recycling labels)**

Part 2, Division 3—

**Repeal Subdivision 1.**

**25. Section 14 amended (content of returns)**

(1) Section 14—

**Repeal subsection (1).**

(2) Section 14(2)—

**Repeal**

“also”.

**26. Section 15 amended (record keeping)**

Section 15(3)—

**Repeal paragraph (a).**

**27. Part 3, Division 1 heading amended (recycling labels and receipts)**

Part 3, Division 1, heading—

**Repeal**

“**Recycling Labels and**”.

**28. Section 27 repealed (provision of recycling labels)**

Section 27—

**Repeal the section.**

**29. Section 43 amended (general requirements)**

(1) Section 43(1)—

**Repeal**

“section 36(1) of the Ordinance, and”.

(2) Section 43(2)—

**Repeal**

“section 36(1) of the Ordinance or under”.

**30. Section 45 amended (right of appeal to Appeal Board)**

Section 45(1)—

**Repeal paragraph (c).**

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## **Part 5**

### **Amendments relating to Plastic Products**

#### **Division 1—Amendments to Product Eco-responsibility Ordinance (Cap. 603)**

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

- (1) Section 2(1)(a), after “shopping bags”—

**Add**

“and other plastic products”.

- (2) Section 2(2)(d)—

**Repeal**

“and”.

- (3) Section 2(2)(e)—

**Repeal**

“(Cap. 354 sub. leg. L).”

**Substitute**

“(Cap. 354 sub. leg. L); and”.

- (4) After section 2(2)(e)—

**Add**

“(f) the prohibition or restriction on the manufacture, sale, supply, distribution, use or display of certain products.”.

**32. Section 3 amended (interpretation)**

Section 3(1)—

**Add in alphabetical order**

*“disposable* (即棄)—see section 3C;

*made of oxo-degradable plastic* (氧化式可分解塑膠製)—see section 3B;

*made of plastic* (塑膠製)—see section 3A;

*plastic* (塑膠)—see section 3A;

*regulated plastic product* (受規管塑膠產品) means a product the manufacture, supply (within the meaning of section 59) or display of which is prohibited or restricted under Part 6, or is subject to a requirement under that Part;”.

### 33. Sections 3A, 3B and 3C added

Part 1, after section 3—

#### Add

#### “3A. Meanings of *plastic* and *made of plastic*

- (1) For the purposes of this Ordinance, plastic is a material consisting of a polymer, whether or not an additive or any other substance has been added to the material.
- (2) For the purposes of this Ordinance, a product is made of plastic if it is wholly or partly made of a material mentioned in subsection (1).
- (3) Despite subsection (2), a product wholly or partly made of a material mentioned in subsection (1) is not made of plastic if—
  - (a) the polymer of which the material consists is a natural polymer that has not been chemically modified; or

- (b) the polymer of which the material consists—
  - (i) is used merely as an additive in the production of the material; and
  - (ii) does not function as a major structural component (such as a laminated layer) of the product.

**3B. Meaning of *made of oxo-degradable plastic***

For the purposes of this Ordinance, a product is made of oxo-degradable plastic if—

- (a) it is made of plastic; and
- (b) there is added to the plastic an additive that, through oxidation, would lead to fragmentation of the plastic into micro-fragments or to chemical decomposition of the plastic.

**3C. Meaning of *disposable***

For the purposes of this Ordinance, a product is disposable if it is not designed to be used for the purpose for which it was designed more than once, or on more than one occasion, before being disposed of.”.

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

Section 4—

**Repeal**

“and regulated articles”

**Substitute**

“, regulated articles and regulated plastic products”.

**35. Section 5 amended (general provisions as to regulations made under this Ordinance)**

Section 5(1)—

**Repeal**

“or 55”

**Substitute**

“, 55 or 100”.

**36. Part 6 added**

After Part 5—

**Add**

**“Part 6**

**Regulated Plastic Products**

**Division 1—Preliminary**

**58. Interpretation of Part 6**

In this Part—

*catering business* (餐飲業務)—see section 64;

*catering premises* (餐飲處所)—see section 63;

*demand notice* (繳款通知書) means a notice served under section 86(2);

*fixed penalty* (定額罰款) means the penalty referred to in section 83(2);

*immediate consumption* (即時食用或飲用)—see section 65;

*penalty notice* (罰款通知書) means a notice given under section 83(2);

***premises*** (處所) includes—

- (a) any structure; and
- (b) a cart or other conveyance;

***preparation*** (製備), in relation to any food or drink, means any form of cooking, or any other treatment that changes the form or flavour of the food or drink, but does not include the trimming of fresh produce, and ***prepared food or drink*** and ***unprepared food or drink*** are to be construed accordingly;

***recovery order*** (追討令) means an order made under section 89(2);

***specified form*** (指明格式) means a form specified under section 96;

***supply*** (供應)—see section 59;

***wholly contained*** (完全載於), in relation to any food or drink, means that the food or drink is wholly wrapped or enclosed in, or covered by, any packaging, irrespective of whether there is any hole on the packaging or whether the opening of the packaging is sealed or folded.

## 59. Meaning of *supply*

(1) For the purposes of this Part—

***supply*** (供應), in relation to a product, means—

- (a) provide or distribute the product; or
- (b) transmit or deliver the product for providing or distributing the product,

but does not include any such act done with a view that the product is to be exported in the course of business.

- (2) For the purposes of this Part, a product is supplied—
  - (a) whether it is supplied as the subject of a transaction or supplied in addition to the subject of a transaction; and
  - (b) whether or not it is supplied together with another product as a single item of goods.
- (3) However, for the purposes of this Part, a person (*provider*) who only provides any one or more of the following services is not to be regarded as supplying a product to another person—
  - (a) transporting for another person a product that does not belong to the provider;
  - (b) making arrangement to facilitate the collection by another person of a product that does not belong to the provider;
  - (c) making arrangement to facilitate the payment by another person for a product that does not belong to the provider.

#### **60. Supplying products at time of providing dine-in service**

For the purposes of this Part, a product is supplied by a person (*caterer*) at the time of providing a dine-in service if—

- (a) any food or drink is supplied by the caterer—
    - (i) on any catering premises of the caterer; and
    - (ii) in the course of the caterer's catering business,
- to another person for consumption on the premises; and



- (b) either—
  - (i) the product is supplied by the caterer together with the food or drink and is used by the caterer for the purpose of serving the food or drink for consumption on the premises; or
  - (ii) the product is supplied by the caterer for the purpose of facilitating the consumption of the food or drink by a person on those premises.

**61. Supplying products at time of providing catering service**

For the purposes of this Part, a product is supplied by a person (*caterer*) at the time of providing a catering service if—

- (a) any food or drink is supplied by the caterer in the course of the caterer's catering business to another person (*customer*) for consumption at a place arranged by the customer, other than any catering premises of the caterer;
- (b) as part of the transaction, the caterer, or a person employed or engaged by the caterer (*attendant*), is present at the place at the time when the food or drink is, or is to be, consumed; and
- (c) either—
  - (i) the product is supplied by the caterer or attendant together with the food or drink and is used by the caterer or attendant for the purpose of serving the food or drink for consumption at the place; or

- (ii) the product is supplied by the caterer or attendant for the purpose of facilitating the consumption of the food or drink by a person at the place.

## **62. Supplying products at time of providing takeaway service**

- (1) For the purposes of this Part, a product is supplied by a person (*caterer*) at the time of providing a takeaway service if—
  - (a) any food or drink supplied by the caterer in the course of the caterer's catering business to another person is to be taken away from any catering premises of the caterer;
  - (b) the food or drink is prepared food or drink ready for immediate consumption;
  - (c) the product is supplied by the caterer for the purpose of—
    - (i) facilitating a person to take away the food or drink from the premises; or
    - (ii) facilitating the consumption of the food or drink by a person outside those premises; and
  - (d) the transaction does not include the presence of the caterer, or a person employed or engaged by the caterer, at the place where the food or drink is, or is to be, consumed.
- (2) Subsection (1) does not apply if—
  - (a) the food or drink is supplied by the caterer to another person (*customer*) for the customer to supply it to a third person in the course of the customer's business;

- (b) before the food or drink is supplied to the customer, the food or drink is wholly contained in any packaging; and
- (c) the food or drink is so contained at a place other than the place at which it is supplied by the customer to a third person.

**63. Supplementary provisions relating to catering premises**

- (1) For the purposes of sections 60, 61 and 62, the catering premises of a person (*caterer*) are premises on which the caterer carries on a catering business (*primary premises*).
- (2) Also, for the purposes of sections 60, 61 and 62, an area is to be regarded as part of the catering premises of the caterer if—
  - (a) seating or tables are made available (whether or not by the caterer) in the area specifically for customers of the caterer for dining purpose; and
  - (b) the area—
    - (i) is adjacent to the primary premises; or
    - (ii) forms part of any premises within which the primary premises are situated.

**64. Supplementary provisions relating to catering business**

- (1) For the purposes of sections 60, 61, 62 and 63, a person (*caterer*) carries on a catering business if the caterer carries on a business of providing a food and drink service.
- (2) A caterer carries on a business of providing a food and drink service if—

- (a) the caterer carries on a business of supplying food or drink for consumption by customers at a particular place, and the caterer, or a person employed or engaged by the caterer, is present at the place to serve the customers; or
  - (b) the caterer carries on a business of supplying prepared food or drink ready for immediate consumption.
- (3) For the purposes of subsection (1), if a person carries on a business that comprises—
- (a) the provision of a food and drink service; and
  - (b) the carrying on of any other activity,  
only the part of the business constituted by the provision of a food and drink service is to be regarded as a catering business.

**65. Meaning of *immediate consumption***

For the purposes of this Part, any food or drink that may be consumed without further preparation is food or drink ready for immediate consumption.

**Division 2—Prohibition on Manufacture of Certain Plastic Products**

**66. Manufacture of certain plastic products prohibited**

A person must not, in the course of the person's business, manufacture a product specified in column 2 of Part 2 of Schedule 10.

**67. Offence relating to section 66**

- (1) A person who contravenes section 66 commits an offence.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6.

**Division 3—Prohibition on Supply or Display of Certain Plastic Tableware etc.****68. Supply of certain plastic tableware prohibited**

- (1) Subject to subsection (2) and section 71, a person (*supplier*) must not, in the course of the supplier's business, supply to another person a product specified in column 2 of Part 3 of Schedule 10.
- (2) Subsection (1) does not apply to the supply of a product to a person (*customer*) if—
  - (a) the product is a product prescribed in Schedule 11;
  - (b) the product is, or forms part of, the packaging of—
    - (i) any unprepared food or drink; or
    - (ii) any prepared food or drink not ready for immediate consumption;
  - (c) the product is supplied by the supplier at the time of providing a dine-in, catering or takeaway service;
  - (d) the supplier reasonably believes that the customer acquires the product for the purpose of supplying it to another person in the course of the customer's business;

- (e) the supplier reasonably believes that the customer acquires the product for the purpose of using it in a manufacturing process; or
- (f) the supplier reasonably believes that the customer acquires the product for it to be used—
  - (i) in any forensic analysis, scientific research or experiment, or medical treatment or procedure; or
  - (ii) for taking medicine.

**69. Supply at time of providing dine-in or catering service prohibited**

- (1) Subject to subsection (2) and section 71, a person must not supply a product specified in column 2 of Part 4 of Schedule 10 at the time of providing a dine-in or catering service.
- (2) Subsection (1) does not apply if the product is a product prescribed in Schedule 11.

**70. Supply at time of providing takeaway service prohibited**

- (1) Subject to subsection (2) and section 71, a person must not supply a product specified in column 2 of Part 5 of Schedule 10 at the time of providing a takeaway service.
- (2) Subsection (1) does not apply if the product is a product prescribed in Schedule 11.

**71. Exception: supply to persons for medical reason etc.**

Sections 68(1), 69(1) and 70(1) do not apply to the supply of a product specified in column 2 of Part 6 of Schedule 10 by a person (*supplier*) to another person (*customer*) if—

- (a) the product is supplied on the request of the customer on the ground that a person needs to use the product to consume any food or drink due to a disability or for a medical reason; and
- (b) the supplier reasonably believes that the product is to be used by a person who needs to use the product to consume any food or drink due to a disability or for a medical reason.

## **72. Display of certain plastic tableware etc. prohibited**

- (1) Subject to subsection (3), a person (*supplier*) must not, in the course of the supplier's business, display a product specified in column 2 of Part 3 of Schedule 10, or information relating to such a product, to potential customers of the product for the purpose of providing or distributing (whether or not by the supplier) the product to such potential customers.
- (2) For the purposes of subsection (1), a product or information is displayed to potential customers of the product if—
  - (a) it is visible to such potential customers;
  - (b) such potential customers can view it by using an electronic device; or
  - (c) it is kept in a place where such potential customers can access it.
- (3) Subsection (1) does not apply if—
  - (a) the product, if supplied, is a product prescribed in Schedule 11;
  - (b) the product is, or forms part of, the packaging of—
    - (i) any unprepared food or drink; or

- (ii) any prepared food or drink not ready for immediate consumption;
  - (c) the product is to be supplied by the supplier at the time of providing a dine-in, catering or takeaway service;
  - (d) the supplier displays the product or information to a person on the person's request;
  - (e) the supplier displays the product or information to a person in the reasonable belief that, if the product is acquired by the person—
    - (i) the person will, in the course of the person's business, supply the product to another person; or
    - (ii) the person will use the product in a manufacturing process; or
  - (f) the supplier displays the product or information with a view that the product is to be exported in the course of business.
- (4) For the purposes of this section, information relating to a product includes—
- (a) a photograph, image or drawing of the product;
  - (b) any information describing the product (such as its brand, size, style or material); and
  - (c) the price of the product.
- (5) To avoid doubt, a statement indicating the availability of a product is not in itself regarded as information relating to a product.
- (6) In this section—
- potential customer*** (潛在顧客), in relation to a product, means a person other than—



- (a) the person who displays the product or information relating to the product;
- (b) the person who is to provide or distribute the product; or
- (c) a person employed or engaged by the person mentioned in paragraph (a) or (b) for the purpose of—
  - (i) displaying the product or information relating to the product; or
  - (ii) providing or distributing the product.

### **73. Offences relating to sections 68, 69, 70 and 72**

- (1) A person who contravenes section 68(1), 69(1), 70(1) or 72(1) commits an offence.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6.
- (3) If a person is charged with an offence under subsection (1), it is a defence to establish that the person exercised due diligence to avoid committing the offence.

## **Division 4—Prohibition on Supply or Display of Other Plastic Products etc.**

### **74. Supply of certain plastic products prohibited**

- (1) Subject to subsection (2), a person (*supplier*) must not, in the course of the supplier's business, supply to another person a product specified in column 2 of Part 7 of Schedule 10.
- (2) Subsection (1) does not apply to the supply of a product to a person (*customer*) if—

- (a) the supplier reasonably believes that the customer acquires the product for the purpose of supplying it to another person in the course of the customer's business;
- (b) the supplier reasonably believes that the customer acquires the product for the purpose of using it in a manufacturing process;
- (c) the supplier reasonably believes that the customer acquires the product for it to be used—
  - (i) in any forensic analysis, scientific research or experiment, or medical treatment or procedure; or
  - (ii) for taking medicine; or
- (d) both of the following conditions are met—
  - (i) the product is supplied on the request of the customer on the ground that a person needs to use the product due to a disability or for a medical reason;
  - (ii) the supplier reasonably believes that the product is to be used by a person who needs to use the product due to a disability or for a medical reason.

**75. Supply of oxo-degradable plastic products prohibited**

A person (*supplier*) must not, in the course of the supplier's business, supply to another person a product that the supplier knows is made of oxo-degradable plastic.

**76. Display of certain plastic products etc. prohibited**

- (1) Subject to subsections (4) and (5), a person must not, in the course of the person's business, display a product specified in column 2 of Part 7 of Schedule 10, or information relating to such a product, to potential customers of the product for the purpose of providing or distributing (whether or not by the person) the product to such potential customers.
- (2) Subject to subsection (5), a person must not, in the course of the person's business, display a product that the person knows is made of oxo-degradable plastic, or information relating to such a product, to potential customers of the product for the purpose of providing or distributing (whether or not by the person) the product to such potential customers.
- (3) For the purposes of subsections (1) and (2), a product or information is displayed to potential customers of the product if—
  - (a) it is visible to such potential customers;
  - (b) such potential customers can view it by using an electronic device; or
  - (c) it is kept in a place where such potential customers can access it.
- (4) Subsection (1) does not apply if—
  - (a) the person (*supplier*) displays the product or information to a person on the person's request; or
  - (b) the supplier displays the product or information to a person in the reasonable belief that, if the product is acquired by the person—

- (i) the person will, in the course of the person's business, supply the product to another person; or
  - (ii) the person will use the product in a manufacturing process.
- (5) Subsections (1) and (2) do not apply if the person displays the product or information with a view that the product is to be exported in the course of business.
- (6) For the purposes of this section, information relating to a product includes—
  - (a) a photograph, image or drawing of the product;
  - (b) any information describing the product (such as its brand, size, style or material); and
  - (c) the price of the product.
- (7) To avoid doubt, a statement indicating the availability of a product is not in itself regarded as information relating to a product.
- (8) In this section—  
***potential customer*** (潛在顧客) has the meaning given by section 72(6).

## **77. Offences relating to sections 74, 75 and 76**

- (1) A person who contravenes section 74(1) or 76(1) commits an offence.
- (2) A person who contravenes section 75 or 76(2) commits an offence.
- (3) A person who commits an offence under subsection (1) or (2) is liable on conviction to a fine at level 6.

- (4) If a person is charged with an offence under subsection (1), it is a defence to establish that the person exercised due diligence to avoid committing the offence.

## **Division 5—Prohibition on Supply of Certain Plastic Products without Charge**

### **78. Supply of certain plastic products without charge prohibited**

A person must not, in the course of the person's business, supply to another person without charge a product specified in column 2 of Part 8 of Schedule 10.

### **79. Supply of tissue paper packs without charge for promotion purpose prohibited**

- (1) A person must not, in the course of the person's business, supply to another person without charge a specified tissue paper pack primarily for the purpose of promoting any matter.
- (2) In subsection (1)—

*specified tissue paper pack* (指明紙巾包) means a tissue paper pack the packaging of which is made of plastic.

### **80. Offences relating to sections 78 and 79**

- (1) A person who contravenes section 78 or 79(1) commits an offence.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6.

- (3) If a person is charged with an offence under subsection (1), it is a defence to establish that the person exercised due diligence to avoid committing the offence.

## **Division 6—Charge for Certain Plastic Products Supplied at Licensed Hotels or Licensed Guesthouses**

### **81. Duty of licensees to charge for certain plastic products supplied at licensed hotels or licensed guesthouses**

- (1) This section applies if the licensee of a licensed hotel or licensed guesthouse supplies to a guest lodging in the hotel or guesthouse for the use of the guest in the accommodation area provided to the guest—
- (a) a product specified in column 2 of Division 1 of Part 9 of Schedule 10; or
- (b) a product that—
- (i) is specified in column 2 of Division 2 of that Part;
- (ii) is not intended to be used, if not used or used up during the lodging period of the guest, after the lodging period by another guest; and
- (iii) is contained in a container made of plastic.
- (2) The licensee must, before or at the end of the lodging period, charge the guest for the product so supplied.
- (3) The licensee must not offer any rebate or discount to the guest with the effect of directly offsetting any amount charged under subsection (2).

- (4) In charging an amount under subsection (2), the licensee must issue to the guest a receipt showing the amount charged for the product.
- (5) For the purposes of this section—
  - (a) a furnished room or suite of rooms hired out by the licensee of a licensed hotel or licensed guesthouse to a guest, or for the use of a guest, for lodging is the accommodation area of the hotel or guesthouse provided to the guest; and
  - (b) the period during which the guest lodges in the hotel or guesthouse is the lodging period of the guest.
- (6) In this section—

**Cap. 349** (《第349章》) means the Hotel and Guesthouse Accommodation Ordinance (Cap. 349);

**licensed guesthouse** (持牌賓館) means premises for which a guesthouse licence issued under section 12A(1)(b) of Cap. 349 is in force;

**licensed hotel** (持牌酒店) means premises for which a hotel licence issued under section 12A(1)(a) of Cap. 349 is in force;

**licensee** (持牌人), in relation to a licensed hotel or licensed guesthouse, means a person named on the hotel licence or guesthouse licence as its holder.

## 82. Offence relating to section 81

- (1) A person who contravenes section 81(2), (3) or (4) commits an offence.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6.

- (3) If a person is charged with an offence under subsection (1), it is a defence to establish that the person exercised due diligence to avoid committing the offence.

## **Division 7—Fixed Penalty and Related Provisions**

### **83. Director may give penalty notice**

- (1) This section applies if the Director has reason to believe that a person is committing or has committed an offence under section 73(1), 77(1), 80(1) or 82(1).
- (2) The Director may give the person a notice in the specified form offering the person an opportunity to discharge the person's liability for the offence by paying a fixed penalty of \$2,000 within 21 days after the date on which the notice is given.
- (3) A penalty notice may be given to the person personally or by affixing it to the person's place of business.

### **84. No prosecution or conviction if compliance with penalty notice**

- (1) This section applies to a person who has been given a penalty notice in respect of an offence.
- (2) Subject to section 88, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 21 days after the date on which the notice is given.



**85. Director may demand personal details and inspect proof of identity**

- (1) This section applies if the Director has reason to believe that a person is committing or has committed an offence under section 73(1), 77(1), 80(1) or 82(1).
- (2) The Director may, for issuing or serving a summons or other document in relation to the offence, require the person—
  - (a) for an individual—
    - (i) to supply the person's name, date of birth, address and contact telephone number (if any); and
    - (ii) to produce for inspection the person's proof of identity; or
  - (b) for a body corporate—
    - (i) to supply the person's corporate name, registered or principal office address and contact telephone number (if any); and
    - (ii) to produce for inspection the person's business registration certificate issued under section 6 of the Business Registration Ordinance (Cap. 310).
- (3) A person who fails to comply with a requirement made under subsection (2) commits an offence and is liable on conviction to a fine at level 2.
- (4) If a person is charged with an offence under subsection (3), it is a defence to establish that the person had a reasonable excuse for failing to comply with a requirement made under subsection (2).

(5) In this section—

***proof of identity*** (身分證明文件) has the meaning given by section 17B(1) of the Immigration Ordinance (Cap. 115).

**86. Director may serve demand notice in case of failure to pay fixed penalty etc.**

(1) This section applies if—

(a) a person—

(i) has been given a penalty notice in respect of an offence; and

(ii) fails to pay the fixed penalty within 21 days after the date on which the notice is given; or

(b) a person refuses to accept a penalty notice intended to be given to the person in respect of an offence.

(2) The Director may serve on the person a notice in the specified form—

(a) demanding payment of the fixed penalty;

(b) informing the person that the person must notify the Director in writing if the person wishes to dispute liability for the offence; and

(c) stating that the payment or notification must be made within 10 days after the date on which the notice is served.

(3) A demand notice may not be served later than—

(a) if subsection (1)(a) applies—6 months after the date on which the penalty notice is given; or

- (b) if subsection (1)(b) applies—6 months after the date on which the person refuses to accept the penalty notice.
- (4) A demand notice may be served by sending it by post to—
  - (a) for an individual—the person’s address; or
  - (b) for a body corporate—the person’s registered or principal office address.
- (5) A certificate of posting in the specified form purporting to be signed by or for the Director is admissible in evidence in any proceedings under this Part.
- (6) Unless there is evidence to the contrary, it is presumed—
  - (a) that the certificate of posting was signed by or for the Director; and
  - (b) that the demand notice to which the certificate of posting relates was duly served.

**87. No prosecution or conviction if compliance with demand notice**

- (1) This section applies to a person on whom a demand notice has been served in respect of an offence.
- (2) Subject to section 88, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 10 days after the date on which the notice is served.

**88. Withdrawal of penalty notice or demand notice**

- (1) The Director may withdraw a penalty notice given, or a demand notice served, in respect of an offence—

- (a) at any time before a recovery order is made; or
  - (b) at any time before any proceedings for the offence commence.
- (2) If a penalty notice or demand notice is withdrawn—
- (a) the Director must serve notice of the withdrawal on the person to whom, or on whom, the penalty notice or demand notice has been given or served; and
  - (b) on application by the person, the Director must refund, through the Director of Accounting Services, any amount paid for the fixed penalty.
- (3) If a penalty notice or demand notice is withdrawn, proceedings for the offence may only be commenced where—
- (a) the ground, or one of the grounds, on which the notice is withdrawn is that it contains incorrect information; and
  - (b) the incorrect information was supplied by the person to whom, or on whom, the notice was given or served.

### **89. Recovery of fixed penalty**

- (1) This section applies if a person on whom a demand notice has been served—
- (a) fails to pay the fixed penalty in accordance with the notice; and
  - (b) fails to notify the Director in accordance with the notice that the person wishes to dispute liability for the offence.

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- (2) On application made in the name of the Secretary for Justice and production of the documents specified in subsection (5), a magistrate must order the person to pay, within 14 days after the date of service of notice of the order—
    - (a) the fixed penalty;
    - (b) an additional penalty equal to the amount of the fixed penalty; and
    - (c) \$300 by way of costs.
  - (3) An application may be made in the absence of the person and the Secretary for Justice may appoint a person or class of persons to make an application.
  - (4) A magistrate must cause notice of a recovery order to be served on the person against whom it is made and it may be served by sending it by post to—
    - (a) for an individual—the person’s address; or
    - (b) for a body corporate—the person’s registered or principal office address.
  - (5) The documents specified for subsection (2) are—
    - (a) a copy of the demand notice;
    - (b) a certificate of posting the demand notice under section 86(5); and
    - (c) an evidentiary certificate, in the specified form, stating the following matters—
      - (i) that the person specified in the certificate had not, before the date of the certificate, paid the fixed penalty;

- (ii) that the person specified in the certificate had not, before the date of the certificate, notified the Director that the person wished to dispute liability for the offence;
  - (iii) that the address specified in the certificate was, on the date specified in the certificate in relation to the address—
    - (A) for an individual—the person’s address; or
    - (B) for a body corporate—the person’s registered or principal office address.
- (6) An evidentiary certificate referred to in subsection (5)(c) and purporting to be signed by or for the Director is admissible in evidence in any proceedings under this Part.
- (7) Unless there is evidence to the contrary—
  - (a) it is presumed that the evidentiary certificate was signed by or for the Director; and
  - (b) the evidentiary certificate is evidence of the facts stated in it.

**90. Consequences of compliance with recovery order or failure to do so**

- (1) This section applies to a person against whom a recovery order is made.
- (2) If the person has complied with the recovery order, the person is not liable to be prosecuted or convicted for the offence to which the order relates.
- (3) If the person fails to comply with the recovery order, the person—

- (a) is to be regarded, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), as having failed to pay the sum adjudged to be paid by a conviction; and
- (b) is liable to be imprisoned under that section.

**91. Application for review of recovery order**

- (1) A person against whom a recovery order is made may apply to a magistrate for review of the order.
- (2) An application must be made within 14 days after the date on which the recovery order first came to the personal notice of the applicant.
- (3) The applicant must give reasonable notice of the application to the Director.
- (4) An application may be made in person or by counsel or solicitor.
- (5) For securing the attendance of witnesses and generally for conducting the proceedings, the magistrate has all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227).

**92. Outcome of review**

- (1) On application under section 91, a magistrate may rescind a recovery order if the magistrate is satisfied that the demand notice did not come to the personal notice of the applicant without any fault of the applicant.
- (2) If the magistrate rescinds a recovery order, and the applicant wishes to dispute liability for the offence to which the order relates, the magistrate must give leave to that effect.

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- (3) If the magistrate rescinds a recovery order, and the applicant does not wish to dispute liability for the offence to which the order relates, the magistrate—
- (a) must order the applicant to pay the fixed penalty within 10 days after the date of an order made under this paragraph; and
  - (b) must order that, if the applicant fails to pay the fixed penalty within that period, the applicant must immediately pay—
    - (i) the fixed penalty;
    - (ii) an additional penalty equal to the amount of the fixed penalty; and
    - (iii) \$300 by way of costs.
- (4) Despite section 26 of the Magistrates Ordinance (Cap. 227), if a magistrate gives leave under subsection (2), proceedings may be commenced within 6 months after the date on which the magistrate gives the leave.
- (5) If the applicant fails to comply with the order under subsection (3)(b), the applicant—
- (a) is to be regarded, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), as having failed to pay the sum adjudged to be paid by a conviction; and
  - (b) is liable to be imprisoned under that section.
- (6) If the applicant has complied with the order under subsection (3)(a) or (b), the applicant is not liable to be prosecuted or convicted for the offence to which the order relates.



**93. Power to rescind order on application by Director**

At any time, a magistrate may for good cause, on application by the Director, rescind—

- (a) an order for the payment of the fixed penalty; and
- (b) any other order made under this Division in the same proceedings.

**94. Dispute of liability for offence**

- (1) This section applies if a person—
  - (a) has notified the Director in accordance with a demand notice that the person wishes to dispute liability for an offence; or
  - (b) has been given leave under section 92(2) to dispute liability for an offence.
- (2) A summons issued in any proceedings against the person for the offence may be served on the person in accordance with section 8 of the Magistrates Ordinance (Cap. 227).
- (3) If—
  - (a) in consequence of the notification or leave, the person appears in any proceedings in answer to a summons; and
  - (b) the person is convicted of the offence after having offered no defence or a defence that is frivolous or vexatious,the magistrate before whom the proceedings are heard must, in addition to any other penalty and costs, impose an additional penalty equal to the amount of the fixed penalty.

- (4) Any proceedings commenced against a person falling within subsection (1)(a) must terminate if the person pays in accordance with subsection (5)—
  - (a) the fixed penalty;
  - (b) an additional penalty equal to the amount of the fixed penalty; and
  - (c) \$500 by way of costs.
- (5) Payment under subsection (4) must be made at any magistrates' court not less than 2 days before the day specified in the summons for the person's appearance, and the summons must be produced at the time of the payment.
- (6) Neither a Saturday nor a public holiday may be included in the computation of the 2 days' period mentioned in subsection (5).

#### **95. Protection of Director and authorized officers**

- (1) The Director or an authorized officer is not personally liable for anything done or omitted to be done by the Director or officer in good faith in the performance or purported performance of a function under this Division.
- (2) The protection conferred by subsection (1) does not affect any liability of the Government for the act or omission.

#### **96. Director may specify form for this Division**

The Director may specify the form of any notice or certificate for the purposes of this Division.

**97. Legislative Council may amend certain amounts**

The Legislative Council may, by resolution, amend the amount specified in section 83(2), 89(2)(c), 92(3)(b)(iii) or 94(4)(c).

**Division 8—Supplementary Provisions****98. Burden of proof**

A person charged with an offence against this Part is taken to have established a matter that needs to be established for a defence under this Part if—

- (a) there is sufficient evidence to raise an issue with respect to the matter; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

**99. Exemption regulations made by Chief Executive in Council**

- (1) The Chief Executive in Council may make regulations to provide for the exemption of the manufacture or supply of a product, or the display of a product or information, from the application of this Part.
- (2) The Chief Executive in Council may make regulations under subsection (1) if the Chief Executive in Council considers that—
  - (a) it is necessary to do so for protecting public health; or
  - (b) it is otherwise in the public interest to do so.
- (3) Without limiting subsection (1), a regulation made under that subsection—

- (a) may make different provisions for different circumstances; and
- (b) may be made so as to apply only in specified circumstances.

**100. Secretary may make regulations for Part 6**

The Secretary may, after consulting the Advisory Council on the Environment, make regulations in respect of any or all of the following matters—

- (a) payment of fixed penalties, additional penalties and other amounts payable under this Part;
- (b) such supplemental provisions as are necessary or expedient for giving full effect to the provisions of this Part;
- (c) any matter ancillary or incidental to those mentioned in this section.

**101. Secretary may amend Schedules 10 and 11**

The Secretary may, after consulting the Advisory Council on the Environment, by notice published in the Gazette, amend Schedule 10 or 11.”.

**37. Schedule 1 amended (plastic shopping bags to which this Ordinance applies)**

- (1) Schedule 1, section 1(1)—

**Repeal**

“wholly or partly”.

- (2) Schedule 1, section 1—

**Repeal subsection (2).**

**38. Schedules 10 and 11 added**

At the end of the Ordinance—

**Add**

**“Schedule 10**

[ss. 66, 68, 69, 70, 71, 72,  
74, 76, 78, 81 & 101]

**Regulated Plastic Products to which this  
Ordinance Applies**

**Part 1**

**Interpretation**

**1. Interpretation**

(1) In this Schedule—

***balloon stick*** (氣球棒) means a stick designed to be used primarily for attaching to, and supporting, a balloon;

***cake topper*** (糕點裝飾) means a product primarily designed to be placed on top of a cake or any pastry for decoration;

***disposable plastic stemmed cotton bud*** (塑膠柄即棄棉花棒) means a small, thin stick made of plastic with cotton wool attached around one or both tips of the stick, designed to be used primarily for cosmetic applications or personal hygiene, where the stick (whether together with the cotton wool or not) is disposable;

***disposable plastic stemmed dental floss*** (塑膠柄即棄牙線棒)

means a product constituted by a thread and a holder made of plastic for holding the thread, designed to be used primarily for cleaning between the teeth, where the holder (whether together with the thread or not) is disposable;

***ear-plug*** (耳塞) means a product primarily designed to be put into a person's ear to keep out noise or water;

***EPS*** (發泡膠) means expanded polystyrene;

***food container*** (食物容器) means a container designed to be used primarily for containing food, other than a cup, plate, bag or wrapper;

***food stick*** (食物籤) means a stick designed to be used primarily for holding or picking up food;

***glow stick*** (螢光棒) means a tube made of plastic containing isolated chemicals that, when combined, are capable of producing light through chemical reaction;

***multipack rings*** (包裝環) means a set of connected rings designed to be used primarily for holding 2 or more products as a single item;

***party hat*** (派對帽) means a hat primarily designed to be worn by guests at a party;

***plastic inflatable cheer stick*** (塑膠打氣棒) means a product made of plastic designed to be used primarily for, after being filled with air, making noise when 2 of them are hit together;

***tablecloth*** (桌布) means a large sheet designed to be used primarily for covering a table;

***toothpick*** (牙籤) means a product designed to be used primarily for picking the teeth;

*umbrella bag* (雨傘袋) means a bag designed to be used primarily for carrying or holding a wet umbrella.

- (2) For the purposes of this Schedule—
- (a) a reference to a product made of EPS is a reference to a product wholly or partly made of EPS; and
  - (b) a reference to a product made of non-EPS plastic is a reference to a product made of plastic that is not EPS.

Part 2

Plastic Products that must not be Manufactured

Column 1	Column 2
Item	Product
1.	Product made of oxo-degradable plastic

Part 3

Plastic Tableware that must not be Supplied or Displayed

Column 1	Column 2
Item	Product
1.	Disposable tableware made of EPS

Column 1	Column 2
Item	Product
2.	Any of the following disposable tableware made of non-EPS plastic— <ul style="list-style-type: none"><li>(a) straw;</li><li>(b) stirrer;</li><li>(c) cutlery;</li><li>(d) plate;</li><li>(e) cup;</li><li>(f) cup lid;</li><li>(g) food container;</li><li>(h) food container cover</li></ul>

**Part 4**

**Plastic Tableware that must not be Supplied at Time of Providing Dine-in or Catering Service**

Column 1	Column 2
Item	Product
1.	Disposable tableware made of EPS
2.	Any of the following disposable tableware made of non-EPS plastic— <ul style="list-style-type: none"><li>(a) straw;</li><li>(b) stirrer;</li></ul>



Column 1	Column 2
Item	Product
	(c) cutlery;
	(d) plate;
	(e) cup;
	(f) cup lid;
	(g) food container;
	(h) food container cover

**Part 5**

**Plastic Tableware that must not be Supplied at  
Time of Providing Takeaway Service**

Column 1	Column 2
Item	Product
1.	Disposable tableware made of EPS
2.	Any of the following disposable tableware made of non-EPS plastic— <ul style="list-style-type: none"><li>(a) straw;</li><li>(b) stirrer;</li><li>(c) cutlery;</li><li>(d) plate;</li><li>(e) cup;</li></ul>

Column 1	Column 2
Item	Product
	(f) cup lid;
	(g) food container;
	(h) food container cover

**Part 6**

**Plastic Tableware that may be Supplied for  
Medical Reason etc.**

Column 1	Column 2
Item	Product
1.	Any of the following disposable tableware made of non-EPS plastic—
	(a) straw

**Part 7**

**Other Plastic Products that must not be Supplied  
or Displayed**

Column 1	Column 2
Item	Product
1.	Disposable cake topper made of plastic

Column 1	Column 2
Item	Product
2.	Disposable food stick made of plastic
3.	Disposable plastic stemmed cotton bud
4.	Disposable balloon stick made of plastic
5.	Disposable plastic inflatable cheer stick
6.	Disposable glow stick
7.	Disposable party hat made of plastic
8.	Disposable umbrella bag made of plastic
9.	Disposable toothpick made of plastic
10.	Disposable gloves wholly or partly made of polyethylene
11.	Disposable tablecloth made of plastic
12.	Disposable multipack rings made of plastic
13.	Disposable plastic stemmed dental floss

**Part 8**

**Plastic Products that must not be Supplied  
without Charge**

Column 1	Column 2
Item	Product
1.	Disposable ear-plug made of plastic

**Part 9**

**Plastic Products that may only be Supplied with  
Charge at Licensed Hotels or Licensed  
Guesthouses**

**Division 1—Products Specified for purposes of  
Section 81(1)(a)**

Column 1	Column 2
Item	Product
1.	Tooth brush with a handle made of plastic
2.	A thing intended to be used as toothpaste contained in a container made of plastic
3.	Shower cap made of plastic

Column 1	Column 2
Item	Product
4.	Shaving razor made of plastic
5.	Nail file made of plastic
6.	Comb made of plastic
7.	Water contained in a disposable container made of plastic

**Division 2—Products Specified for purposes of  
Section 81(1)(b)**

Column 1	Column 2
Item	Product
1.	A thing in liquid or cream form intended to be used for cleaning a person’s hair (such as a shampoo)
2.	A thing in liquid or cream form intended to be used as a hair conditioner
3.	A thing in liquid or cream form intended to be used for cleaning a person’s body (such as a bath gel or shower gel)
4.	A thing in liquid or cream form intended to be used for moisturizing a person’s skin

Column 1	Column 2
Item	Product
5.	A thing in liquid or cream form intended to be used for cleaning a person’s hands while washing the hands

Schedule 11

[ss. 68, 69, 70, 72 &  
101]

Products to which Sections 68(1), 69(1), 70(1)  
and 72(1) do not Apply

1. Pre-packaged food or drink products

- (1) The product prescribed for the purposes of sections 68(2)(a), 69(2), 70(2) and 72(3)(a) is a product (*plastic product*) that forms part of another product (*final product*) supplied by a person (*supplier*) to another person (*customer*) as a pre-packaged food or drink product.
- (2) For the purposes of subsection (1), a plastic product forms part of a final product supplied by a supplier to a customer as a pre-packaged food or drink product if—

- (a) before the supply, the food or drink was packaged at a place other than the place at which the final product is supplied (*supply point*);
  - (b) any of the following conditions is met—
    - (i) the plastic product is, or forms part of, the packaging of the food or drink;
    - (ii) the plastic product was attached to the packaging of the food or drink at a place other than the supply point and was so attached to be used for consuming the food or drink;
    - (iii) the plastic product was placed inside the packaging of the food or drink at a place other than the supply point and was so placed to be used for consuming the food or drink; and
  - (c) before the supply, the food or drink was wholly contained in any packaging.
- (3) However, for the purposes of subsection (1), the final product is not supplied to a customer as a pre-packaged food or drink product if, before the supply—
- (a) the contents of the package have been altered at the supply point; or
  - (b) the package has been opened, or the packaging has been changed, at the supply point.
- (4) For the purposes of this section, if a final product is collected by the customer at a place (*collection point*) other than any of the supplier's business premises, the supplier's business premises from where the

product is transported to the collection point in the following manner is to be regarded as the supply point—

- (a) by the supplier; or
- (b) by a person arranged by the supplier or the customer only to transport the product.

(5) In this section—

***business premises*** (業務處所), in relation to a person who supplies a product, means the premises on which the person carries on a business for supplying the product, and includes the premises used by the person for storing the product.

(6) Expressions used in this Schedule that are used in Part 6 have the same meaning in this Schedule as in that Part.”.

## **Division 2—Related Amendment to Criminal Procedure Ordinance (Cap. 221)**

### **39. Section 113C amended (provision for fines for offences)**

Section 113C(1)(c), after “(Cap. 600)” —

**Add**

“, the Product Eco-responsibility Ordinance (Cap. 603)”.

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## **Explanatory Memorandum**

The main purpose of this Bill is to amend the Product Eco-responsibility Ordinance (Cap. 603) (*principal Ordinance*) and its subsidiary legislation—

- (a) to refine the existing producer responsibility schemes for electrical and electronic equipment and containers of certain products; and
- (b) to create a new regulating regime for disposable plastic tableware and other plastic products.

2. The Bill contains 5 Parts.

### **Part 1—Preliminary**

3. Clause 1 sets out the short title and provides for commencement.

### **Part 2—Amendments relating to Service of Notices**

4. Clause 3 adds a new Part 2A to the principal Ordinance. Under the principal Ordinance, notices required or authorized to be served under sections 38, 40, 52 and 54 of the principal Ordinance are to be regarded as duly served if they are sent by post to an address. The object of the new Part 2A is to consolidate relevant provisions in those sections into one single Part and to allow service of those notices by facsimile transmission or other electronic means. The relevant provisions in those sections are repealed by clauses 4 to 7.

**Part 3—Amendments relating to New Regulated Electrical Equipment**

5. Part 3 is divided into 3 Divisions. Division 1 of that Part deals with amendments to the principal Ordinance. Division 2 of that Part deals with amendments to the Product Eco-responsibility (Regulated Electrical Equipment) Regulation (Cap. 603 sub. leg. B) (**Cap. 603B**). Division 3 of that Part deals with consequential amendments to the Waste Disposal Ordinance (Cap. 354) (**Cap. 354**).

*Division 1—Amendments to Principal Ordinance*

6. Clause 10 amends Schedule 6 to the principal Ordinance so that tumble dryers and dehumidifiers become new classes of regulated electrical equipment. Further, amendments are made in relation to existing classes of regulated electrical equipment so that refrigerators having a rated total storage volume exceeding 500 litres but not exceeding 900 litres, and washing machines having a rated washing capacity exceeding 10 kilograms but not exceeding 15 kilograms, are also covered.

*Division 2—Amendments to Cap. 603B*

7. Clause 11 amends Schedule 1 to Cap. 603B to set out the recycling levy payable for tumble dryers and dehumidifiers.
8. Clause 12 amends Schedule 2 to Cap. 603B to revise the prescribed wording that must be contained in receipts provided by sellers when distributing any regulated electrical equipment to consumers.

*Division 3—Related Amendments to Cap. 354*

9. Clauses 13 to 15 make consequential amendments to Cap. 354.

#### **Part 4—Amendments relating to Recycling Labels etc.**

10. Part 4 is divided into 2 Divisions. Division 1 of that Part deals with amendments to the principal Ordinance. Division 2 of that Part deals with amendments to Cap. 603B.
11. Under the principal Ordinance, if a registered supplier distributes to a person any regulated electrical equipment mentioned in section 37(1)(a) of the principal Ordinance, the supplier must provide to the person a recycling label that is appropriate for the equipment. The purpose of Part 4 is to remove this requirement.

##### *Division 1—Amendments to Principal Ordinance*

12. Clause 17 amends section 35 of the principal Ordinance to remove the requirement for registered suppliers to provide recycling labels.
13. Clause 18 repeals section 36 of the principal Ordinance to remove the requirement for the Director of Environmental Protection to provide recycling labels.
14. Clause 19 adds a new Division heading to Part 4 of the principal Ordinance to rationalize the arrangement of the provisions.
15. Clause 20 amends section 44(1) of the principal Ordinance to repeal the power of the Secretary for Environment and Ecology (*Secretary*) to make regulations in respect of recycling labels.
16. Clauses 21 and 22 provide for the savings and transitional provisions that are required as a result of the removal of the requirements relating to recycling labels.

*Division 2—Amendments to Cap. 603B*

17. Clause 24 repeals Subdivision 1 of Division 3 of Part 2 of Cap. 603B to remove the requirements relating to the provision of recycling labels by registered suppliers.
18. Clause 25 amends section 14 of Cap. 603B to remove the requirement for a return to contain particulars relating to recycling labels.
19. Clause 26 amends section 15(3) of Cap. 603B to remove the requirement to keep records and documents relating to recycling labels.
20. Clause 28 repeals section 27 of Cap. 603B to remove the requirements relating to the provision of recycling labels by sellers.
21. Clause 30 amends section 45(1) of Cap. 603B to remove the refusal of an application for recycling labels as an appealable matter under the principal Ordinance.

**Part 5—Amendments relating to Plastic Products**

22. Part 5 is divided into 2 Divisions. Division 1 of that Part deals with amendments to the principal Ordinance. Division 2 of that Part deals with an amendment to the Criminal Procedure Ordinance (Cap. 221) (*Cap. 221*).

*Division 1—Amendments to Principal Ordinance*

23. Clause 31 amends section 2 of the principal Ordinance to add the prohibition or restriction on the manufacture, sale, supply, distribution, use or display of certain products as a matter that a scheme or measure under the principal Ordinance may include.
24. Clauses 32 and 33 add new definitions of ***disposable, made of oxo-degradable plastic, made of plastic, plastic*** and ***regulated plastic product***.
25. Clause 36 adds a new Part 6 to the principal Ordinance. That Part is divided into 8 Divisions.
26. Division 1 of the new Part 6 contains the definitions for the interpretation of that Part. In particular, the new section 59 sets out the meaning of ***supply*** and the new sections 60, 61 and 62 set out the meaning of supplying a product at the time of providing a dine-in, catering or takeaway service respectively.
27. Division 2 of the new Part 6 prohibits the manufacture of certain plastic products in the course of business. A person who commits a relevant offence is liable on conviction to a fine at level 6.
28. Division 3 of the new Part 6 prohibits the supply of certain plastic tableware and the display of such tableware and information relating to such tableware. A person who commits a relevant offence is liable on conviction to a fine at level 6. It is a defence for a person charged with an offence to establish that the person exercised due diligence to avoid committing the offence. The new section 71 provides that certain plastic tableware may be provided on the ground that a person needs

to use the tableware to consume any food or drink due to a disability or for a medical reason.

29. Division 4 of the new Part 6 prohibits the supply of other plastic products and the display of such products and information relating to such products. Further, a person must not supply or display a product that the person knows is an oxo-degradable plastic product. A person who commits a relevant offence is liable on conviction to a fine at level 6. It is a defence for a person charged with an offence (other than an offence relating to an oxo-degradable plastic product) to establish that the person exercised due diligence to avoid committing the offence.
30. Division 5 of the new Part 6 prohibits the supply of certain plastic products without charge. A person who commits a relevant offence is liable on conviction to a fine at level 6. It is a defence for a person charged with an offence to establish that the person exercised due diligence to avoid committing the offence.
31. Division 6 of the new Part 6 requires the licensees of licensed hotels or licensed guesthouses to impose a charge on certain toiletries that are made of plastic, or contained in a plastic container. A person who commits a relevant offence is liable on conviction to a fine at level 6. It is a defence for a person charged with an offence to establish that the person exercised due diligence to avoid committing the offence.
32. Division 7 of the new Part 6 provides for a fixed penalty regime in respect of certain offences under Divisions 3, 4, 5 and 6 of that Part. In particular, the new section 83 provides that a person may discharge the person's liability for the offence by paying a fixed penalty of \$2,000.

33. Division 8 of the new Part 6—
- (a) provides for the standard of proof for a defence;
  - (b) empowers the Chief Executive in Council to make regulations to exempt the manufacture or supply of a product, or the display of a product or information, from the application of that Part; and
  - (c) empowers the Secretary, after consulting the Advisory Council on the Environment, to make regulations in respect of matters under that Part and to amend the new Schedules 10 and 11.
34. Clause 38 adds 2 new Schedules to the principal Ordinance. The new Schedule 10 sets out the products subject to, or exempt from, the prohibition or requirement under Divisions 2 to 6 of the new Part 6. Schedule 11 sets out the products to which certain provisions in Division 3 of that Part do not apply.

*Division 2—Related Amendment to Cap. 221*

35. Clause 39 amends section 113C(1)(c) of Cap. 221 so that a fixed penalty under the principal Ordinance is an excluded fine under that section. Therefore, the amount of fixed penalty provided under the principal Ordinance will not be regarded as a fine at a level relevant to the amount in the table set out in that section.