

# LEGISLATIVE COUNCIL BRIEF

## Product Eco-responsibility Ordinance (Chapter 603)

### PRODUCT ECO-RESPONSIBILITY (AMENDMENT) BILL 2023

#### INTRODUCTION

A At the meeting of the Executive Council on 31 January 2023, the Council ADVISED and the Chief Executive ORDERED that the Product Eco-responsibility (Amendment) Bill 2023 (Amendment Bill) at **Annex A** should be introduced into the Legislative Council to provide a legal framework for the regulation of disposable plastic tableware and other plastic products; and to enhance the producer responsibility scheme (PRS) on waste electrical and electronic equipment (WPRS) and the PRS on glass beverage containers (GPRS).

#### JUSTIFICATIONS

##### **Regulation of Disposable Plastic Tableware and Other Plastic Products**

##### ***Challenges of Waste Plastics***

2. Plastics are widely used in our daily lives, but their decomposition may take over a hundred years, during which they will be fragmented into plastic particles. If waste plastics accidentally enter into the sea, not only will they affect the marine ecosystem, plastic particle fragments or microplastics will also enter into the food chain if absorbed by marine organisms, thereby threatening human and animal health. In Hong Kong, around 2 300 tonnes of waste plastics were disposed of daily at landfills in 2021, accounting for about 21% of total municipal solid waste, and had increased by around 37% since 2008. Of all the waste plastics, plastic/polyfoam tableware constitutes about 10%.

##### ***Plastic Waste Management Measures in Different Places***

3. In recent years, many different places (including the Mainland)

## B

have stepped up efforts in reducing the use of plastic materials, in particular single-use plastic products, and exploring alternatives. Examples are set out at **Annex B**. In addition, a resolution was passed by the representatives from 175 countries (including China) at the fifth session of the United Nations Environment Assembly in March 2022 to complete the drafting of a global treaty that aims at alleviating the serious problem of plastic pollution by 2024.

4. With the growing concerns over the issue of disposable plastics across the world, the market for reusable tableware or disposable tableware made of non-plastic materials (such as paper, softwood, plant fibre, etc.) has been developing rapidly in recent years, driving down the prices of such greener alternatives to levels comparable to those of conventional disposable plastic tableware. Coupled with the increasing “plastic-free” awareness of the public, it is now considered opportune to put forward the proposed regulation of the use of disposable plastic tableware and other plastic products in Hong Kong.

### ***Regulation of Disposable Plastic Tableware***

#### *Proposal*

5. We **propose** that nine types of disposable plastic tableware, including expanded polystyrene (EPS) tableware, straws, stirrers, cutlery, plates, cups, cup lids, food containers, and food container covers, be regulated in two phases. The first phase regulation consists of banning the sale of EPS tableware and other disposable plastic tableware that are small in size and difficult to recycle or to which there are mature alternatives (such as stirrers, straws, knives, forks, spoons and plates, etc.). It will also include the prohibition of providing any disposable plastic tableware to dine-in customers at catering premises, and certain plastic tableware to takeaway customers. In the second phase regulation, we suggest going plastic-free for all types of disposable tableware by prohibiting both local sale and provision of any disposable plastic tableware for both dine-in and takeaway customers. Owing to the similar nature with dine-in services, catering services (involving the provision of food and beverage and catering staff) for private events are also suggested to be included under the scope of dine-in services.

6. Details of the proposed phased regulatory framework are summarised as follows:

Types of disposable plastic tableware	Phase 1	Phase 2
EPS tableware, Straws, Stirrers, Cutlery (forks, knives, spoons), Plates	Prohibits the <b>sale</b> to end-customers	
	Prohibits the <b>provision</b> at catering premises to customers for dine-in and takeaway services	
Cups	Prohibits the <b>provision</b> at catering premises to customers for <b>dine-in</b> services	Prohibits the <b>sale</b> to end-customers
Cup lids		
Food containers		Prohibits the <b>provision</b> at catering premises to customers for <b>dine-in</b> and <b>takeaway</b> services
Food container covers		

### *Exclusions*

7. We **propose** that the following circumstances be excluded from the regulation:

- (a) Pre-packaged food or drink products (e.g. disposable plastic straws attached to beverage cartons, disposable plastic cutlery provided inside cup noodles and ice cream cups etc.); however, the disposable plastic tableware is not exempted if it does not form part of the commodity, or is added after the product is manufactured; and
- (b) Sale and provision of disposable plastic straws to customers with medical needs at retail and catering premises.

### *Implementation Timetable*

8. When we consulted the public on the issue in 2021, it was proposed that the first phase regulation would be implemented in around 2025. However, there have been views that there should be room to implement it earlier. In view of the relatively mature market and availability of non-plastic alternatives (e.g. paper, soft wood, etc.) to disposable plastic straws, stirrers, cutlery and plates that are covered by the first phase regulation, we **propose** to advance the first phase regulation

from 2025 to six months after the passage of the Amendment Bill (in the fourth quarter of 2023 at the earliest) to allow time for the community to get prepared. As for the second phase regulation covering those plastic tableware (i.e. cups, cup lids, food containers, and food container covers) that have relatively limited number of suppliers of suitable non-plastic alternatives at the moment, we tentatively intend to implement the second phase in 2025 but the exact timing would be subject to the availability and affordability of the alternatives.

### ***Regulation of Other Plastic Products***

#### ***Proposal***

9. At the invitation of the Government, the Council for Sustainable Development (SDC) conducted a public engagement from September to December 2021 on the control of single-use plastics (other than disposable plastic tableware). Taking into account the SDC's recommendations, experience in other places and local situation, we **propose** to implement a control scheme on certain disposable plastic products as summarised below:

<b>Control measures</b>	<b>Disposable plastic products</b>
<b>Ban sale and free distribution</b>	<p><b>Phase 1</b> cotton buds; balloon sticks; inflatable cheer sticks; glow sticks; party hats; oxo-degradable plastic products (regardless of disposability); cake toppers; umbrella bags; *food sticks; *plastic toothpicks</p> <p><b>Phase 2</b> multi-pack rings; *table cloths; *non-medical use transparent gloves; *plastic stemmed dental floss</p>
<b>Ban free distribution</b>	<p><b>Phase 1</b> hotel toiletries (including plastic-handled toothbrushes, plastic combs, etc.) and plastic-bottled water provided in the hotel rooms; *plastic packaged tissue paper for promotional use</p> <p><b>Phase 2</b> *ear plugs</p>
<b>Ban manufacturing</b>	oxo-degradable plastic products (regardless of disposability)

\*Products that were not mentioned in the public engagement of SDC

10. Similar to disposable plastic tableware, we **propose** that the regulation of disposable plastic products be implemented in phases. Products proposed to be regulated in the first phase either have established non-plastic alternatives (e.g. cotton buds, umbrella bags) or are not necessities (e.g. inflatable cheer sticks). We also observe that recently there are more hotels refraining from providing disposable toiletries for free, or replacing them with non-plastic alternatives. The manufacturing, selling and distributing for free oxo-degradable plastics products are also proposed to be banned in the first phase because they will break down into tiny fragments after oxidation or chemical decomposition, which will create micro-plastics pollution if they enter into the sea and subsequently the food chain. Places such as the European Union and New Zealand have already banned the manufacturing, sale or distribution of oxo-degradable plastic products.

#### *Exemption*

11. We **propose** to exempt the sale and/or free distribution of regulated disposable plastic products for certain purposes, including forensic analysis, medical treatment or procedure, scientific research or experiment, or taking medicine. The Chief Executive in Council may also make regulations to provide for exemptions on the grounds of protecting public health or public interest (for example, to safeguard security in respect of Hong Kong, to deal with emergency situation, etc.)

#### *Implementation Timetable*

12. Similar to phased regulation of disposable plastic tableware, we **propose** that the first phase regulation of other plastic products commence six months after the passage of the Amendment Bill (in the fourth quarter of 2023 at the earliest) to allow time for the community to get prepared. The timing of the second phase regulation will depend on the availability and affordability of the non-plastic or reusable alternatives.

#### *Penalties*

13. We **propose** that any person who contravenes the proposed measures to control disposable plastic tableware and other plastic products commits an offence, and is liable to a maximum fine at level 6<sup>1</sup>. We also

---

<sup>1</sup> According to Schedule 8 to the Criminal Procedure Ordinance (Cap. 221), a fine at level 6 is \$100,000.

**propose** that a fixed penalty notice could be issued to the relevant person (for example, retailers or person-in-charge of the catering premises) demanding for a fixed penalty of \$2,000<sup>2</sup> to discharge the person's liability for the offence so as to enhance the law enforcement efficiency and to maintain the deterrent effect. The Legislative Council may by resolution amend the fixed penalty level.

## **Enhancement of two existing Producer Responsibility Schemes**

### ***WPRS***

14. The WPRS has been fully implemented since 2018, covering eight types of regulated electrical equipment (REE), namely air-conditioners, refrigerators, washing machines, televisions, computers, printers, scanners and monitors (commonly known as “四電一腦” in Chinese). Under the WPRS, suppliers of REE are required to pay a recycling levy and provide a recycling label for each REE distributed. Having considered the views from the trade and the public on the implementation of WPRS over the past few years and the existing recycling capacity of WEEE•PARK (Waste Electrical and Electronic Equipment Treatment Facility funded by the Government), we **propose** to:

- (a) expand the coverage of the WPRS to (i) include refrigerators with larger capacity, by raising the cap of the rated storage volume from 500 litres to 900 litres; (ii) include washing machine with larger capacity, by raising the cap of the rated washing capacity from 10 kg to 15 kg; and (iii) add two new classes of REE, namely, tumble dryers and dehumidifiers;
- (b) remove the requirements in relation to the provision of recycling labels in the distribution of REE so as to streamline the operation of the WPRS; and
- (c) allow service of payment and assessment notices on registered suppliers through electronic means so as to streamline the administrative work in collecting recycling levy.

15. We **propose** that the amount of recycling levies for the two new classes of REE (i.e. tumble dryers and dehumidifiers) be set at the same

---

<sup>2</sup> Not applicable to non-compliance with the prohibition of manufacturing and sale of oxo-degradable plastic products.

levels as those for the existing REE items of similar nature (i.e. washing machines and air-conditioners respectively). The recycling levies for refrigerators and washing machines of larger capacities will remain the same as those of the current capacities. The recycling levies per piece of the relevant REEs (including the newly added ones) are listed at **Annex C**. The enhanced WRPS is expected to be implemented in 2024 at the earliest.

C

### ***GPRS***

16. The GPRS will commence full implementation on 1 May 2023. It is expected that returns from more than 2,000 registered suppliers will be received by the Environmental Protection Department quarterly. The current legislation for GPRS only provides for serving payment and assessment notices on registered suppliers by mail. To enhance the operational efficiency, we **propose** to add fax, email and a designated electronic system to the means of serving the notices.

### **THE BILL**

17. The main provisions of the Amendment Bill are set out as follows

- (a) Part 1 sets out the short title and provides for commencement.
- (b) Parts 2 to 4 amend the Product Eco-responsibility Ordinance (the Ordinance) and its subsidiary legislation to enhance the existing WPRS and GPRS by:
  - (i) adding a new Part 2A to the Ordinance to provide for the manner of service of notice under the WPRS and GPRS (see Part 2);
  - (ii) expanding the scope of REE under the WPRS to cover new classes of REE, and to cover refrigerators and washing machines with larger capacity (see Part 3); and
  - (iii) removing the requirement for the provision of recycling labels in the distribution of REE (see Part 4).

- (c) Part 5 amends the Ordinance to provide for the legal framework for the regulation of disposable plastic tableware and other plastic products. The key provisions include the following:
- (i) clause 36 adds a new Part 6 to the Ordinance to provide for the prohibition of the manufacture, supply and display of disposable plastic tableware and other plastic products, and to provide for a fixed penalty mechanism for dealing with certain offences under the new Part 6;
  - (ii) clause 38 adds a new Schedule 10 to set out the products to be regulated, and a new Schedule 11 to prescribe the product to which certain provisions under the new Part 6 do not apply; and
  - (iii) clause 39 makes a related technical amendment to the Criminal Procedure Ordinance (Cap. 221) to delink the fixed penalty provided under the Ordinance from the level of fine in that Ordinance.

D 18. Existing provisions being amended are at **Annex D**.

## LEGISLATIVE TIMETABLE

19. The legislative timetable is as follows –

Publication in the Gazette	10 February 2023
First Reading and commencement of Second Reading Debate	15 March 2023
Resumption of Second Reading debate, Committee Stage and Third Reading	To be notified

## IMPLICATIONS OF THE PROPOSAL

E 20. The proposals will have environmental, sustainability, economic, financial and civil service implications, as detailed at **Annex E**. The proposals have no productivity, family, or gender implications and are in conformity with the Basic Law, including the provisions concerning human rights. The Amendment Bill will not affect the current binding effect of the Ordinance and its subsidiary legislation.

## PUBLIC CONSULTATION AND ENGAGEMENT

F 21. We conducted a public consultation on the regulation of disposable plastic tableware from July to September 2021. Over 90% of the submissions supported regulating disposable plastic tableware progressively by legislation. The summary of findings of the public consultation is at **Annex F**.

G 22. The SDC conducted a public engagement on the control of single-use plastics from September to December 2021. An extract of the SDC's recommendations is at **Annex G**.

23. We consulted the Legislative Council Panel on Environmental Affairs on the Amendment Bill on 24 October 2022. Members supported our proposals.

## PUBLICITY

24. A press release will be arranged on the day of the First Reading of the Amendment Bill. A spokesperson will also be made available to answer press enquiries.

### *Regulation of disposable plastic tableware and other plastic products*

25. In order to encourage the early adoption by the F&B trade of more environmental-friendly non-plastic tableware, we are building an online information platform to be launched by the first quarter of 2023 for public reference. We will also establish an information platform on disposable plastics to share with the public the characteristics and pros and cons of different alternatives.

26. We will strengthen the promotion and publicity work according to the schedule of the phased regulation.

***Enhancement of existing PRSs***

27. We will arrange briefings for the trade to assist them in the submission of applications to be registered suppliers of the new REE items and inform them of the streamlined arrangement of the WPRS. We will also notify the registered suppliers under GPRS in advance of the new arrangement for serving payment and assessment notices by electronic means and help them set up accounts under the designated electronic system.

**ENQUIRIES**

28. For enquiries on this brief, please contact Mr Kenneth CHENG, Assistant Director (Waste Management) of the Environmental Protection Department at 3150 8183 or email to [kennethcheng@epd.gov.hk](mailto:kennethcheng@epd.gov.hk).

**Environment and Ecology Bureau  
Environmental Protection Department  
8 February 2023**

**Product Eco-responsibility (Amendment) Bill 2023****Contents**

Clause		Page
	<b>Part 1</b>	
	<b>Preliminary</b>	
1.	Short title and commencement.....	1
2.	Enactments amended.....	2
	<b>Part 2</b>	
	<b>Amendments to Product Eco-responsibility Ordinance (Cap. 603) relating to Service of Notices</b>	
3.	Part 2A added.....	3
	<b>Part 2A</b>	
	<b>Service of Notices under Parts 4 and 5</b>	
16A.	Application of Part 2A .....	3
16B.	Service of notices under Parts 4 and 5 .....	3
16C.	Designation of electronic system .....	4
4.	Section 38 amended (registered supplier must submit returns) .....	5
5.	Section 40 amended (recovering recycling levies by assessment notice).....	5

Clause		Page
6.	Section 52 amended (registered supplier must submit returns) .....	5
7.	Section 54 amended (recovering container recycling levy by assessment notice).....	5

**Part 3****Amendments relating to New Regulated Electrical Equipment****Division 1—Amendments to Product Eco-responsibility Ordinance (Cap. 603)**

8.	Section 3 amended (interpretation) .....	6
9.	Section 42 amended (seller must arrange for removal service) .....	6
10.	Schedule 6 amended (regulated electrical equipment to which this Ordinance applies).....	6

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

11.	Schedule 1 amended (amount of recycling levy) .....	9
12.	Schedule 2 amended (wording contained in receipts).....	9

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

13.	Section 2 amended (interpretation) .....	9
14.	Section 18 amended (penalties for offences under sections 16, 16A, 16B, 16C and 17 and defences).....	10
15.	Section 20G amended (defence of due diligence, etc.) .....	10

**Part 4**

Clause	Page
<b>Amendments relating to Recycling Labels etc.</b>	
<b>Division 1—Amendments to Product Eco-responsibility Ordinance (Cap. 603)</b>	
16.	Section 31 amended (interpretation of Part 4)..... 11
17.	Section 35 amended (recycling label and receipt must be provided when distributing regulated electrical equipment)..... 11
18.	Section 36 repealed (Director must provide recycling labels) ..... 11
19.	Part 4, Division 3A heading added..... 12
<b>Division 3A—Recovery of Recycling Levies</b>	
20.	Section 44 amended (Secretary may make regulations for Part 4)..... 12
21.	Part 4, Division 7 added..... 12
<b>Division 7—Savings and Transitional Provisions</b>	
46A.	Savings and transitional provisions relating to Product Eco-responsibility (Amendment) Ordinance 2023 ..... 12
22.	Schedule 9 added ..... 12
	Schedule 9 Savings and Transitional Provisions relating to Product Eco-responsibility (Amendment) Ordinance 2023 ..... 12
<b>Division 2—Amendments to Product Eco-responsibility (Regulated Electrical Equipment) Regulation (Cap. 603 sub. leg. B)</b>	
23.	Section 2 amended (interpretation) ..... 15

Clause	Page
24.	Part 2, Division 3, Subdivision 1 repealed (recycling labels) ..... 15
25.	Section 14 amended (content of returns)..... 16
26.	Section 15 amended (record keeping)..... 16
27.	Part 3, Division 1 heading amended (recycling labels and receipts)..... 16
28.	Section 27 repealed (provision of recycling labels) ..... 16
29.	Section 43 amended (general requirements) ..... 16
30.	Section 45 amended (right of appeal to Appeal Board) ..... 17
<b>Part 5</b>	
<b>Amendments relating to Plastic Products</b>	
<b>Division 1—Amendments to Product Eco-responsibility Ordinance (Cap. 603)</b>	
31.	Section 2 amended (purposes of this Ordinance)..... 18
32.	Section 3 amended (interpretation) ..... 18
33.	Sections 3A, 3B and 3C added..... 19
3A.	Meanings of <i>plastic</i> and <i>made of plastic</i> ..... 19
3B.	Meaning of <i>made of oxo-degradable plastic</i> ..... 20
3C.	Meaning of <i>disposable</i> ..... 20
34.	Section 4 amended (prescribed products to which Part 2 applies)..... 20
35.	Section 5 amended (general provisions as to regulations made under this Ordinance)..... 20

Clause		Page
36.	Part 6 added.....	21
	<b>Part 6</b>	
	<b>Regulated Plastic Products</b>	
	<b>Division 1—Preliminary</b>	
58.	Interpretation of Part 6 .....	21
59.	Meaning of <i>supply</i> .....	22
60.	Supplying products at time of providing dine-in service .....	23
61.	Supplying products at time of providing catering service .....	24
62.	Supplying products at time of providing takeaway service .....	24
63.	Supplementary provisions relating to catering premises .....	26
64.	Supplementary provisions relating to catering business.....	26
65.	Meaning of <i>immediate consumption</i> .....	27
	<b>Division 2—Prohibition on Manufacture of Certain Plastic Products</b>	
66.	Manufacture of certain plastic products prohibited.....	27
67.	Offence relating to section 66 .....	27

Clause		Page
	<b>Division 3—Prohibition on Supply or Display of Certain Plastic Tableware etc.</b>	
68.	Supply of certain plastic tableware prohibited .....	28
69.	Supply at time of providing dine-in or catering service prohibited.....	29
70.	Supply at time of providing takeaway service prohibited .....	29
71.	Exception: supply to persons for medical reason etc.....	29
72.	Display of certain plastic tableware etc. prohibited.....	29
73.	Offences relating to sections 68, 69, 70 and 72.....	32
	<b>Division 4—Prohibition on Supply or Display of Other Plastic Products etc.</b>	
74.	Supply of certain plastic products prohibited.....	32
75.	Supply of oxo-degradable plastic products prohibited .....	33
76.	Display of certain plastic products etc. prohibited.....	33
77.	Offences relating to sections 74, 75 and 76 .....	35
	<b>Division 5—Prohibition on Supply of Certain Plastic Products without Charge</b>	

Clause	Page
78. Supply of certain plastic products without charge prohibited .....	35
79. Supply of tissue paper packs without charge for promotion purpose prohibited .....	35
80. Offences relating to sections 78 and 79 .....	36
<b>Division 6—Charge for Certain Plastic Products Supplied at Licensed Hotels or Licensed Guesthouses</b>	
81. Duty of licensees to charge for certain plastic products supplied at licensed hotels or licensed guesthouses .....	36
82. Offence relating to section 81 .....	38
<b>Division 7—Fixed Penalty and Related Provisions</b>	
83. Director may give penalty notice .....	38
84. No prosecution or conviction if compliance with penalty notice .....	38
85. Director may demand personal details and inspect proof of identity .....	39
86. Director may serve demand notice in case of failure to pay fixed penalty etc. ....	40
87. No prosecution or conviction if compliance with demand notice .....	41
88. Withdrawal of penalty notice or demand notice .....	41

Clause	Page
89. Recovery of fixed penalty .....	42
90. Consequences of compliance with recovery order or failure to do so .....	44
91. Application for review of recovery order .....	45
92. Outcome of review .....	45
93. Power to rescind order on application by Director .....	46
94. Dispute of liability for offence .....	47
95. Protection of Director and authorized officers .....	48
96. Director may specify form for this Division .....	48
97. Legislative Council may amend certain amounts .....	48
<b>Division 8—Supplementary Provisions</b>	
98. Burden of proof .....	48
99. Exemption regulations made by Chief Executive in Council .....	49
100. Secretary may make regulations for Part 6 .....	49
101. Secretary may amend Schedules 10 and 11 .....	50
37. Schedule 1 amended (plastic shopping bags to which this Ordinance applies) .....	50
38. Schedules 10 and 11 added .....	50

Clause		Page
Schedule 10	Regulated Plastic Products to which this Ordinance Applies .....	50
Schedule 11	Products to which Sections 68(1), 69(1), 70(1) and 72(1) do not Apply .....	59
<b>Division 2—Related Amendment to Criminal Procedure Ordinance (Cap. 221)</b>		
39.	Section 113C amended (provision for fines for offences).....	61

# 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.

---

**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”.

## **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).**

## 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.
- (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.
- (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
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> <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 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> <li>(f) cup lid;</li> <li>(g) food container;</li> <li>(h) food container cover</li> </ul>

**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— <ul style="list-style-type: none"> <li>(a) straw</li> </ul>

## Part 7

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

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

Column 1	Column 2
Item	Product
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
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)”.

### 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.

## Summary of Recent Moves of Various Jurisdictions on Plastic Waste Reduction

Places	Recent moves				
Global	<ul style="list-style-type: none"> <li>On 2 March 2022, a resolution was passed by representatives from 175 countries (including China) at the United Nations Environment Assembly, to commence drafting a global treaty that aims at alleviating the serious problem of plastic pollution. Countries will formulate a comprehensive and legally binding treaty which addresses issues throughout the full lifecycle of plastics, from production, design to disposal, and commence negotiation within the year, with the target to complete negotiations of the content by 2024.</li> </ul>				
Mainland China	<ul style="list-style-type: none"> <li>Announced the plan in January 2020 to phase out disposable plastics across the country with effect by end of 2020 and progressively until 2025, covering the following products: <table border="1" data-bbox="421 1093 1410 1912"> <tr> <td data-bbox="421 1093 568 1563">By end 2020</td><td data-bbox="568 1093 1410 1563"> <ul style="list-style-type: none"> <li>Prohibit the use of non-degradable plastic bags in large scale supermarkets and malls in main cities, and to extend to other cities by end 2022</li> <li>Prohibit the catering sector to use non-degradable disposable plastic straws; progressively prohibit the use of non-degradable disposable plastic tableware for dine-in services</li> <li>Prohibit the production and sale of EPS tableware and plastic stemmed cotton buds</li> </ul> </td></tr> <tr> <td data-bbox="421 1563 568 1912">By end 2022</td><td data-bbox="568 1563 1410 1912"> <ul style="list-style-type: none"> <li>Prohibit the use of non-degradable plastic packaging for delivery services in major cities, and to extend the prohibition to the whole country in 2025</li> <li>Star hotels cannot actively provide disposable plastic products, and to extend the prohibition to the whole hotel sector in 2025</li> </ul> </td></tr> </table> </li> </ul>	By end 2020	<ul style="list-style-type: none"> <li>Prohibit the use of non-degradable plastic bags in large scale supermarkets and malls in main cities, and to extend to other cities by end 2022</li> <li>Prohibit the catering sector to use non-degradable disposable plastic straws; progressively prohibit the use of non-degradable disposable plastic tableware for dine-in services</li> <li>Prohibit the production and sale of EPS tableware and plastic stemmed cotton buds</li> </ul>	By end 2022	<ul style="list-style-type: none"> <li>Prohibit the use of non-degradable plastic packaging for delivery services in major cities, and to extend the prohibition to the whole country in 2025</li> <li>Star hotels cannot actively provide disposable plastic products, and to extend the prohibition to the whole hotel sector in 2025</li> </ul>
By end 2020	<ul style="list-style-type: none"> <li>Prohibit the use of non-degradable plastic bags in large scale supermarkets and malls in main cities, and to extend to other cities by end 2022</li> <li>Prohibit the catering sector to use non-degradable disposable plastic straws; progressively prohibit the use of non-degradable disposable plastic tableware for dine-in services</li> <li>Prohibit the production and sale of EPS tableware and plastic stemmed cotton buds</li> </ul>				
By end 2022	<ul style="list-style-type: none"> <li>Prohibit the use of non-degradable plastic packaging for delivery services in major cities, and to extend the prohibition to the whole country in 2025</li> <li>Star hotels cannot actively provide disposable plastic products, and to extend the prohibition to the whole hotel sector in 2025</li> </ul>				

Places	Recent moves	
	By end 2025	- Consumption of disposable plastic tableware by takeaway services in major cities to decrease by 30%
Macao, China	<ul style="list-style-type: none"><li>• Import and transshipment of single-use EPS tableware has been banned since January 2021; import and transshipment of non-degradable single-use plastic straws and stirrers has been banned since January 2022; import of non-degradable single-use plastic knives, forks and spoons will be banned from January 2023.</li></ul>	
Taiwan, China	<ul style="list-style-type: none"><li>• The use of disposable plastic straws and disposable plastic tableware for government departments, department stores, some catering sector and schools, etc. have been banned progressively since 2002, and the measures to control single-use takeaway beverage cups have been enhanced in 2022; a comprehensive ban to be implemented by 2030.</li></ul>	
Japan	<ul style="list-style-type: none"><li>• Required large retailers, F&amp;B business, hotels and laundry business, etc. to review and reduce the free distribution of 12 disposable plastic products, including disposable tableware, toothbrushes and razors since April 2022.</li></ul>	
Singapore	<ul style="list-style-type: none"><li>• Aim to increase overall plastic recycling rate to 70% in 2030, encourage the use of reusables and reduce the use of disposables. No specific regulation for disposable plastic tableware so far.</li></ul>	
European Union	<ul style="list-style-type: none"><li>• Adopted the “A European Strategy for Plastics in a Circular Economy” with the following targets:<ul style="list-style-type: none"><li>- the consumption of single-use plastics will be reduced; and</li><li>- intentional use of micro-plastics will be restricted</li></ul></li><li>• The Single-use Plastic Directive was endorsed in 2019, including:<ul style="list-style-type: none"><li>- Banned ten types of single-use plastic products (such as cutlery, straws, stirrers, EPS food containers and cups, cotton bud sticks and oxo-degradable plastics) since July 2021;</li><li>- PET plastic bottles need to contain 25% recycled plastics by 2025, and to raise the rate to 30% in 2030 and to extend to all types of plastic bottles; and</li><li>- The plastic bottle recycling rate to be raised to 90% by 2029</li></ul></li></ul>	

<b>Places</b>	<b>Recent moves</b>
England	<ul style="list-style-type: none"> <li>• Provision and sale of disposable plastic straws, cotton bud sticks and stirrers by businesses have been banned since October 2021</li> <li>• “Plastic packaging tax” required to be paid by importers or manufacturers for packaging materials with lower than 30% recycled plastics since April 2022.</li> </ul>
France	<ul style="list-style-type: none"> <li>• The sale of single-use plastic cups and plates has been banned since 2020; the sale of plastic straws, stirrers, disposable cutlery and EPS meal boxes etc. has been banned since 2021; the provision of single-use tableware to dine-in customers by the catering sector (including fast food chains) will be banned from 2023.</li> </ul>
Seattle, United States	<ul style="list-style-type: none"> <li>• The use of EPS food container and cups in the catering sector has been banned since 2009; the use of non-recyclable or non-compostable disposable tableware in the catering sector has been banned since 2010; the use of plastic straws and cutlery, etc. in the catering sector has been banned since 2018.</li> </ul>
Canada	<ul style="list-style-type: none"> <li>• Announced “Single-use Plastics Prohibition Regulations” in June 2022 to gradually prohibit the sale, manufacture, import and export of six categories of single-use plastic products by end 2022, including checkout bags, straws, stir sticks, ring carriers, cutlery and food service ware.</li> <li>• The Government also planned to specify that certain plastic products must contain 50% recycled plastic by 2030.</li> <li>• Raised the target to reach zero-plastic waste by 2030.</li> </ul>
Australia	<p>Western Australian Government :</p> <ul style="list-style-type: none"> <li>• Fast-track the Plan for Plastics Reduction, with the following two phases to reduce disposable plastics: <ul style="list-style-type: none"> <li>- Phase 1 : To ban the use of plastic plates, bowls, cutlery, stirrers, straws, thick plastic bags, EPS food containers, etc. from January 2022</li> <li>- Phase 2 : To ban the use of produce bags, microbeads, EPS packaging and cups, coffee cups and cup lids, bowls, container lids, cotton buds and oxo-degradable plastics from February 2023</li> </ul> </li> </ul>

Places	Recent moves
	<p data-bbox="352 241 823 280">South Australian Government :</p> <ul data-bbox="352 315 1417 515" style="list-style-type: none"> <li data-bbox="352 315 1417 398">• Ban the sale of disposable plastic straws, cutlery and stirrers from March 2021</li> <li data-bbox="352 427 1417 515">• Ban the sale of EPS cups, bowls, plates, clam-shell containers and oxo-degradable plastics, etc. from March 2022</li> </ul>

## **Annex C**

### **Recycling levy per item of the relevant REE**

Refrigerator	Washing Machine; Tumble Dryer	Air Conditioner; and Dehumidifier
\$165 / piece	\$125 / piece	\$125 / piece

**38. Registered supplier must submit returns**

- (1) A registered supplier must, in accordance with the REE Regulation, periodically submit returns to the Director.
- (2) On receiving a return, the Director must—
  - (a) determine the amount of recycling levy payable under section 37 by the registered supplier; and
  - (b) serve a payment notice on the supplier.
- (3) A registered supplier must, within the prescribed period after the date the payment notice is served, pay to the Director in the prescribed manner the recycling levy payable under section 37 stated in the payment notice.
- (4) If a registered supplier submits a return in respect of a period in a calendar year, the supplier must keep the prescribed records and documents relating to the return during the 5 years after that year.
- (5) A person who contravenes subsection (1) commits an offence and is liable—
  - (a) on the first conviction, to a fine at level 6; and
  - (b) on a subsequent conviction, to a fine of \$200,000.
- (6) A person who contravenes subsection (3) commits an offence and is liable—
  - (a) on the first conviction, to a fine at level 6; and
  - (b) on a subsequent conviction, to a fine of \$200,000.
- (7) A person who contravenes subsection (4) commits an offence and is liable to a fine at level 5.
- (8) A payment notice under subsection (2)(b) is regarded as duly served on a registered supplier when it is sent by post to the last address provided by the supplier to the Director.
- (9) In subsections (3) and (4)—

***prescribed*** (訂明) means prescribed by the REE Regulation.

**40. Recovering recycling levies by assessment notice**

- (1) This section applies if a person (***relevant person***)—
  - (a) distributes regulated electrical equipment in contravention of section 32(1); or

- (b) distributes or uses regulated electrical equipment without having paid the Director the recycling levy payable under section 37 for the equipment (or any part of the levy).
- (2) For the purposes of subsection (1), entering into an agreement to distribute does not constitute distribution.
- (3) The Director may assess—
  - (a) for regulated electrical equipment mentioned in subsection (1)(a), the amount of recycling levy that would have been payable under section 37 for any regulated electrical equipment if the equipment was distributed in compliance with section 32(1); or
  - (b) for regulated electrical equipment mentioned in subsection (1)(b), the amount of recycling levy payable under section 37.
- (4) The Director may serve an assessment notice (***assessment notice***) on the relevant person demanding payment of—
  - (a) the assessed amount; or
  - (b) if the relevant person has already paid part of that amount under section 37, the outstanding part of that amount.
- (5) The Director may replace an assessment notice with another assessment notice served for that purpose.
- (6) The Director may at any time withdraw an assessment notice by serving a withdrawal notice to that effect.
- (7) An assessment notice served in respect of the recycling levy payable under section 37 for a period must be served within 5 years after the end of that period.
- (8) An assessment notice must state—
  - (a) the reasons for serving the notice;
  - (b) how the amount of recycling levy assessed by the Director is calculated;
  - (c) when and how the relevant person must pay; and
  - (d) the right of the relevant person to appeal against the notice.
- (9) The relevant person must pay the amount of recycling levy demanded under an assessment notice within the period prescribed by the REE Regulation.
- (10) A person who contravenes subsection (9) commits an offence and is liable—
  - (a) on the first conviction, to a fine at level 6; and

- (b) on a subsequent conviction, to a fine of \$200,000.
- (11) A person who is convicted of an offence under subsection (10) is also liable to pay—
  - (a) a surcharge of 5% of the amount of recycling levy that is outstanding at the expiry of the period mentioned in subsection (9); and
  - (b) an additional surcharge of 10% of the amount of recycling levy or the surcharge mentioned in paragraph (a) that is outstanding at the expiry of 6 months after the period mentioned in subsection (9).
- (12) An outstanding amount of recycling levy or surcharges payable under this section is recoverable as a civil debt due to the Government.
- (13) If an appeal is made under Division 5 of Part 2 against an assessment notice, any amount of recycling levy or surcharges that is outstanding remains payable under this section pending the determination of the appeal unless the Director decides otherwise.
- (14) A notice under this section is regarded as duly served on a relevant person when it is sent by post—
  - (a) if the relevant person is a registered supplier, to the last address provided by the person to the Director; or
  - (b) if the relevant person is not a registered supplier, to the last known address of the person.

- (a) distributes the article; or
  - (b) consumes the article.
- (2) The container recycling levy is payable only once under this section in respect of a regulated article.
- (3) An outstanding amount of container recycling levy payable under this section is recoverable as a civil debt due to the Government.

**52. Registered supplier must submit returns**

- (1) A registered supplier must, in accordance with the Regulated Articles Regulation, periodically submit returns to the Director.
- (2) On receiving a return, the Director must—
  - (a) determine the amount of container recycling levy payable under section 51 by the registered supplier; and
  - (b) serve a payment notice on the supplier.
- (3) A registered supplier must, within the prescribed period after the date the payment notice is served, pay to the Director in the prescribed manner the container recycling levy payable under section 51 stated in the payment notice.
- (4) A registered supplier who submits a return in respect of a period in a calendar year must keep the prescribed records and documents relating to the return during the 5 years after that year.
- (5) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on the first conviction, to a fine at level 6; and
  - (b) on a subsequent conviction, to a fine of \$200,000.
- (6) A person who contravenes subsection (3) commits an offence and is liable—
  - (a) on the first conviction, to a fine at level 6; and
  - (b) on a subsequent conviction, to a fine of \$200,000.
- (7) A person who contravenes subsection (4) commits an offence and is liable to a fine at level 5.
- (8) A payment notice under subsection (2)(b) is regarded as duly served on a registered supplier when it is sent by post to the last address provided by the supplier to the Director.
- (9) In subsections (3) and (4)—  
*prescribed* (訂明) means prescribed by the Regulated Articles Regulation.

**53. Registered supplier must submit annual audit report**

- (1) A registered supplier must, in accordance with the Regulated Articles Regulation, submit an audit report to the Director every year in respect of the returns submitted by the supplier.
- (2) The audit report must be prepared by a certified public accountant (practising) as defined by section 2(1) of the Professional Accountants Ordinance (Cap. 50), who must not be an employee of the registered supplier.
- (3) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 5.

**54. Recovering container recycling levy by assessment notice**

- (1) This section applies if the supplier of a regulated article (*relevant supplier*)—
  - (a) distributes the article in contravention of section 48(1); or
  - (b) distributes or consumes the article without having paid to the Director the container recycling levy payable under section 51 for the article (or any part of the levy).
- (2) For the purposes of subsection (1), entering into an agreement to distribute does not constitute distribution.
- (3) The Director may assess—
  - (a) for the regulated article mentioned in subsection (1)(a), the amount of container recycling levy that would have been payable under section 51 for the article if the article had been distributed in compliance with section 48(1); or
  - (b) for the regulated article mentioned in subsection (1)(b), the amount of container recycling levy payable under section 51.
- (4) The Director may serve an assessment notice (*assessment notice*) on the relevant supplier demanding payment of—
  - (a) the assessed amount; or
  - (b) if the relevant supplier has already paid part of that amount under section 51, the outstanding part of that amount.
- (5) The Director may replace an assessment notice with another assessment notice served for that purpose.

Promotion of Recycling and Proper Disposal (Product Container) (Amendment)  
Ordinance 2016

Part 2  
Section 6

Ord. No. 13 of 2016  
A805

---

- (6) The Director may at any time withdraw an assessment notice by serving a withdrawal notice to that effect.
- (7) An assessment notice served in respect of the container recycling levy payable under section 51 for a period must be served within 5 years after the end of that period.
- (8) An assessment notice must state—
  - (a) the reasons for serving the notice;
  - (b) how the amount of container recycling levy assessed by the Director is calculated;
  - (c) when and how the relevant supplier must pay; and
  - (d) the right of the relevant supplier to appeal against the notice.
- (9) The relevant supplier must pay the amount demanded under the assessment notice within the period prescribed by the Regulated Articles Regulation.
- (10) A person who contravenes subsection (9) commits an offence and is liable—
  - (a) on the first conviction, to a fine at level 6; and
  - (b) on a subsequent conviction, to a fine of \$200,000.
- (11) A person who is convicted of an offence under subsection (10) is also liable to pay—
  - (a) a surcharge of 5% of the amount of container recycling levy that is outstanding at the expiry of the period mentioned in subsection (9); and

- (b) an additional surcharge of 10% of the amount of container recycling levy or the surcharge mentioned in paragraph (a) that is outstanding at the expiry of 6 months after the period mentioned in subsection (9).
- (12) An outstanding amount of container recycling levy or surcharges payable under this section is recoverable as a civil debt due to the Government.
- (13) If an appeal is made under Division 5 of Part 2 against an assessment notice, any amount of container recycling levy or surcharges that is outstanding remains payable under this section pending the determination of the appeal unless the Director decides otherwise.
- (14) A notice under this section is regarded as duly served on a relevant supplier when it is sent by post—
  - (a) if the relevant supplier is a registered supplier, to the last address provided by the supplier to the Director; or
  - (b) in any other case, to the last known address of the supplier.

## **Division 4—Regulations**

### **55. Secretary may make regulations for Part 5**

- (1) The Secretary may, after consulting the Advisory Council on the Environment, make regulations in respect of one or more of the following matters—
  - (a) an application for registration under section 49 and the determination in relation to the application;

### 3. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

**authorized officer** (獲授權人員) means a public officer authorized under section 6;

**body corporate** (法人團體) means—

- (a) a company as defined by section 2(1) of the Companies Ordinance (Cap. 622); or
- (b) a company incorporated outside Hong Kong; (*Added 4 of 2014 s. 4*)

**Director** (署長) means the Director of Environmental Protection;

**plastic shopping bag** (塑膠購物袋) means a plastic shopping bag to which this Ordinance applies according to section 18;

**prescribed product** (訂明產品) means any product mentioned in section 4;

**product** (產品) includes any article, material and substance;

**regulated electrical equipment** (受管制電器) means electrical equipment or electronic equipment that—

- (a) is set out in column 2 of Schedule 6 and is defined in column 3 of that Schedule; and
- (b) has not been used by any consumer as defined by section 31,

but does not include e-waste as defined by section 2(1) of the Waste Disposal Ordinance (Cap. 354); (*Added 3 of 2016 s. 4*)

**Secretary** (局長) means the Secretary for Environment and Ecology. (*Amended L.N. 144 of 2022*)

(2) In this Ordinance, unless the context otherwise requires—

- (a) a reference to any product includes a reference to any part of the product;
- (b) a reference to a function includes a reference to a power and a duty; and
- (c) a reference to the performance of a function includes a reference to the exercise of a power and the discharge of a duty.

### 42. Seller must arrange for removal service

(1) In this section—

**removal terms** (除舊條款) means the terms—

- (a) agreed between a consumer and a seller who distributes an item of regulated electrical equipment to the consumer; and
- (b) the purpose of which is to provide for the removal, in accordance with subsection (2), of electrical equipment or electronic equipment of the same class as that item of equipment.

(2) If—

- (a) a seller distributes an item of regulated electrical equipment (**former**) to a consumer;
- (b) the consumer requests, in accordance with the removal terms and any applicable requirements in the REE Regulation, the seller to remove another item of electrical equipment or electronic equipment (**latter**); and
- (c) the former and the latter fall within the descriptions of the same item of electrical equipment or electronic equipment set out in column 2 of Schedule 6,

the seller must arrange for the removal of the latter in accordance with the seller's removal service plan. The seller must not charge the consumer for the arrangement.

(3) A person who contravenes subsection (2) commits an offence and is liable—

- (a) on the first conviction, to a fine at level 6; and
- (b) on a subsequent conviction, to a fine of \$200,000.

(4) If a seller distributes any regulated electrical equipment to a consumer, the seller must notify the consumer in writing of the seller's obligation under subsection (2) before entering into the relevant contract of distribution.

(5) If—

- (a) a seller is to distribute any regulated electrical equipment to a consumer; and
- (b) the relevant contract of distribution is to be subject to certain removal terms,

the seller must notify the consumer in writing of the terms before entering into the contract.

(6) A person who contravenes subsection (4) commits an offence and is liable—

- (a) on the first conviction, to a fine at level 2; and

- (b) on a subsequent conviction, to a fine at level 3.
- (7) A person who contravenes subsection (5) commits an offence and is liable—
  - (a) on the first conviction, to a fine at level 2; and
  - (b) on a subsequent conviction, to a fine at level 3.
- (8) The removal terms that are applicable to the distribution of regulated electrical equipment to a consumer form part of the terms of the relevant contract of distribution.
- (9) The removal terms are void to the extent to which they are inconsistent with the provisions of this Ordinance.
- (10) For the purposes of subsection (2), (4) or (5), providing regulated electrical equipment to an owner or tenant of a residential property under an agreement for sale and purchase, tenancy agreement or renovation agreement for the property without charging specifically for the equipment does not constitute distributing the equipment.

## Schedule 6

[ss. 3, 42 & 46]

### **Regulated Electrical Equipment to which this Ordinance Applies**

*(Schedule 6 added 3 of 2016 s. 10)*

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
1.	Air conditioner	A room air conditioner within the descriptions in Division 1 of Part 2 of Schedule 1 to the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598).
2.	Refrigerator	A refrigerating appliance within the descriptions in Division 2 of Part 2 of Schedule 1 to the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598).

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
3.	Washing machine	A washing machine within the descriptions in Division 4 of Part 2 of Schedule 1 to the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598).
4.	Television	<p>(1) An electronic apparatus that falls within the following descriptions —</p> <ul style="list-style-type: none"> <li>(a) the apparatus comprises a tuner (or a receiver) and a display screen that are encased in a single casing;</li> <li>(b) the principal function of the apparatus is to receive and display television signals transmitted by an antenna or signal cable;</li> <li>(c) the size of the display screen of the apparatus does not exceed 254 cm (100 inches) (measured diagonally); and</li> <li>(d) (if the apparatus has any other audio visual device attached to it) the device attached to the apparatus is encased in that casing and, together with other components, is connected with the electricity socket by one power cable.</li> </ul> <p>(2) A television that falls within the definition of <b><i>monitor</i></b> in item 8 of this Schedule is nevertheless regarded, for the purposes of this Ordinance, as a television.</p>
5.	Computer	<p>(1) An electronic apparatus that is—</p> <ul style="list-style-type: none"> <li>(a) used for the storage, processing and retrieval of electronic data; and</li> </ul>

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		<p>(b) generally called “personal computer”, “PC”, “desktop computer”, “tablet computer”, “laptop computer” or “notebook computer” or by a name with a similar meaning in the course of marketing.</p> <p>(2) A portable electronic apparatus that falls within the descriptions in paragraph (1) is nevertheless not regarded, for the purposes of this Ordinance, as a computer, if—</p> <p>(a) one of the principal functions of the apparatus is for mobile communication through a cellular radio network;</p> <p>(b) the apparatus has the standard voice function of a telephone;</p> <p>(c) the apparatus is connected to the public switched telephone network (PSTN); and</p> <p>(d) the apparatus is generally called “telephone” or “phone” or by a name with a similar meaning in the course of marketing.</p> <p>(3) A computer that falls within the definition of other electrical equipment or electronic equipment in this Schedule is nevertheless regarded, for the purposes of this Ordinance, as a computer.</p>
6.	Printer	<p>(1) An electronic apparatus that falls within the following descriptions —</p>

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		<ul style="list-style-type: none"> <li>(a) the weight of the apparatus does not exceed 30 kg (excluding any consumables, power cable and data cable that are designed to be removable with bare hands); and</li> <li>(b) the principal function of the apparatus is to print, by using electronic data from a computer connected to the apparatus, words or images on paper.</li> </ul> <p>(2) A printer that can be used as a photocopier, facsimile transmitter or scanner is nevertheless regarded, for the purposes of this Ordinance, as a printer.</p> <p>(3) A facsimile transmitter that can only print words or images on paper by using electronic data transmitted via a telephone signal network is not regarded, for the purposes of this Ordinance, as a printer.</p>
7.	Scanner	<p>An electronic apparatus that falls within the following descriptions—</p> <ul style="list-style-type: none"> <li>(a) the weight of the apparatus does not exceed 30 kg (excluding any consumables, power cable and data cable that are designed to be removable with bare hands); and</li> </ul>

Column 1	Column 2	Column 3
Item	Electrical equipment or electronic equipment	Definition in this Ordinance
		(b) the principal function of the apparatus is to generate, by an optical scanning of any word or image on a surface placed immediately against a transparent panel of the apparatus, electronic data from which the word or image can be reproduced.
8.	Monitor	<p>An electronic apparatus that falls within the following descriptions—</p> <p>(a) the apparatus does not have the function of storing electronic data or computing;</p> <p>(b) the principal function of the apparatus is to generate, by using electronic data from a computer connected to the apparatus, words or images on a display screen by means of cathode-ray tube (CRT), liquid crystal display (LCD), plasma, light emitting diode (LED) or laser technology; and</p> <p>(c) the size of the display screen of the apparatus is not smaller than 13.97 cm (5.5 inches) (measured diagonally) but does not exceed 254 cm (100 inches) (measured diagonally).</p>

**Schedule 1**

[s. 22 &amp; 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

## 2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

**analyst** (化驗師) means the Government Chemist or any person appointed by the Governor under section 23E(5); (*Added 58 of 1987 s. 2*)

**animal waste** (動物廢物) means—

- (a) the manure or urine of any animal; or
- (b) any dead animal or any part of any dead animal not fit for, or not intended for, human consumption; or
- (c) any bedding, straw or other waste contaminated by the manure or urine of any animal, (*Replaced 58 of 1987 s. 2*)

but does not include clinical waste; (*Amended 6 of 2006 s. 2*)

**authorized officer** (獲授權人員) means a public officer authorized under section 23A; (*Added 58 of 1987 s. 2*)

**chemical waste** (化學廢物) means any substance, matter or thing defined as chemical waste by regulations made under section 33; (*Added 86 of 1991 s. 3*)

**clinical waste** (醫療廢物) means waste consisting of any substance, matter or thing belonging to any of the groups specified in Schedule 8 that is generated in connection with—

- (a) a dental, medical, nursing or veterinary practice;
- (b) any other practice, or establishment (howsoever described), that provides medical care and services for the sick, injured, infirm or those who require medical treatment;
- (c) dental, medical, nursing, veterinary, pathological or pharmaceutical research; or
- (d) a—
  - (i) dental;
  - (ii) medical;
  - (iii) veterinary; or
  - (iv) pathological, laboratory practice,

but does not include chemical waste or radioactive waste; (*Added 6 of 2006 s. 2*)

**Code of Practice** (工作守則) means any Code of Practice prepared or revised by the Secretary under section 35; (*Added 58 of 1987 s. 2. Amended L.N. 244 of 1989; 78 of 1999 s. 7*)

**collection authority** (廢物收集當局) means—

- (a) in relation to chemical waste and clinical waste, the Director; (*Amended 6 of 2006 s. 2*)
- (b) in relation to any other waste, means the Director of FEH and the Director; (*Replaced 78 of 1999 s. 7. Amended L.N. 183 of 2000; 25 of 2021 s. 3*)

**construction waste** (建築廢物) means any substance, matter or thing defined as construction waste by regulations made under section 33, but does not include chemical waste; (*Added 17 of 2004 s. 2*)

**designated bag** (指定袋) means a bag that—

- (a) is produced by the Director or a person who is authorized to produce it under section 20S(2)(a); and
- (b) meets the requirements specified under section 20T; (*Added 25 of 2021 s. 3*)

**designated label** (指定標籤) means a label that—

- (a) is produced by the Director or a person who is authorized to produce it under section 20S(2)(a); and
- (b) meets the requirements specified under section 20T; (*Added 25 of 2021 s. 3*)

**designated waste disposal facility** (指定廢物處置設施) has the same meaning as in section 2 of the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg. L); (*Added 17 of 2004 s. 2*)

**Director** (署長) means the Director of Environmental Protection; (*Added L.N. 74 of 1986*)

**Director of FEH** (食環署長) means the Director of Food and Environmental Hygiene; (*Added 25 of 2021 s. 3*)

**disposal** (處置)—

- (a) in relation to chemical waste and clinical waste, includes treatment, reprocessing and recycling; and
- (b) in relation to e-waste, includes storage, treatment, reprocessing and recycling, but does not include repair; (*Replaced 3 of 2016 s. 12*)

**enlarged area** (放大區) means those parts of—

- (a) a livestock waste prohibition area;

(b) a livestock waste control area; or (*Amended 28 of 1994 s. 2*)

(c) a livestock waste restriction area, (*Added 28 of 1994 s. 2*) specified in the third column of the Third Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry, which abut or share a common boundary with one or more livestock waste control areas or one or more livestock waste restriction areas; (*Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2*)

**e-waste** ( 電器廢物 ) means any electrical equipment or electronic equipment that, judging by its appearance, is an item set out in column 2 of Schedule 6 to the Product Eco-responsibility Ordinance (Cap. 603) and has been abandoned; (*Added 3 of 2016 s. 12*)

**exempt person** ( 獲豁免的人 ) means any person or any classes of person specified in the Fourth Schedule; (*Added 58 of 1987 s. 2*)

**household waste** ( 住戶廢物 ) means waste produced by a household, and of a kind that is ordinarily produced by a dwelling when occupied as such;

**keep** ( 飼養 ) includes breed, house, tend, look after or control and **kept** and **keeping** shall be construed accordingly; (*Added 58 of 1987 s. 2*)

**lairage** ( 圍欄 ) means that part of a slaughterhouse or abattoir used for the admission or confinement of animals; (*Added 58 of 1987 s. 2*)

**livestock** ( 禽畜 ) means pigs or poultry; (*Added 58 of 1987 s. 2*)

**livestock keeper** ( 禽畜飼養人 ) means—

- (a) an owner of livestock; or
- (b) an owner, lessee or occupier or person responsible for the management of livestock premises; or
- (c) any person keeping livestock or having the custody or possession of livestock; or
- (d) any former livestock keeper,

but does not comprise exclusively any exempt person; (*Added 58 of 1987 s. 2*)

**livestock premises** ( 禽畜飼養場 ) means—

- (a) any premises, buildings, land or land covered by water owned, leased or occupied by a livestock keeper, his dependants or employees for the purpose of keeping livestock and any dwelling-place and ancillary buildings or structures connected therewith;
- (b) any other premises in or on which livestock are kept other than any premises comprising any abattoir, slaughterhouse, market, fresh provision shop, lairage or hatchery in which poultry of not more than 12 days old are kept; and
- (c) any former livestock premises; (*Added 58 of 1987 s. 2*)

**livestock waste** (禽畜廢物) means, subject to section 2A, animal waste produced by, or connected with, livestock; (*Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2*)

**livestock waste control area** (禽畜廢物管制區) means a livestock waste control area specified in the second column of the Second Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry; (*Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2*)

**livestock waste prohibition area** (禽畜廢物禁制區) means a livestock waste prohibition area specified in the second column of the First Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry; (*Added 58 of 1987 s. 2. Amended 28 of 1994 s. 2*)

**livestock waste restriction area** (禽畜廢物限制區) means a livestock waste restriction area specified in column 2 of the Fifth Schedule by reference to maps identified therein and signed by the Director, an officer of the Environmental Protection Department not below the rank of Environmental Protection Officer or a Chief Environmental Protection Inspector and deposited with the Land Registry; (*Added 28 of 1994 s. 2*)

**livestock waste treatment plant** (禽畜廢物處理裝置) means a waste treatment plant at which livestock waste is treated by biological, chemical, physical or other means or any combination thereof in accordance with regulations made under section 33; (*Added 58 of 1987 s. 2*)

**municipal solid waste** (都市固體廢物) means any waste except—

- (a) chemical waste;
- (b) clinical waste; and
- (c) construction waste; (*Added 25 of 2021 s. 3*)

**poultry** (家禽) means chickens, ducks, geese, pigeons and quail; (*Added 58 of 1987 s. 2*)

**private lot** (私人地段) means a piece or parcel of ground held under a Government lease and identified by a lot number as defined by regulation 2 of the Land Registration Regulations (Cap. 128 sub. leg. A); (*Added 19 of 2013 s. 3*)

**refuse collection point** (垃圾收集站) means a place where—

- (a) municipal solid waste is collected and removed by, or on behalf of, the Director of FEH; and
- (b) the sign prescribed under section 20X(1)(a) is exhibited in the way prescribed under that section; (*Added 25 of 2021 s. 3*)

**relevant date** (有關日期) means—

- (a) in the case of a livestock waste prohibition area, the date shown in the third column of the First Schedule in respect of that area; or
- (b) in the case of a livestock waste control area, the date shown in the third column of the Second Schedule in respect of that area; (*Added 58 of 1987 s. 2*)

**scheduled facility** (附表設施)—see section 2 of the Waste Disposal (Refuse Transfer Station) Regulation (Cap. 354 sub. leg. M); (*Added 25 of 2021 s. 3*)

**Secretary** (局長) means the Secretary for Environment and Ecology; (*Added 78 of 1999 s. 7. Amended L.N. 106 of 2002; L.N. 130 of 2007; L.N. 144 of 2022*)

**slaughterhouse** (屠房) and **abattoir** (屠場) has the meaning assigned to it in the Public Health and Municipal Services Ordinance (Cap. 132); (*Added 58 of 1987 s. 2*)

**specified bin** (指明桶箱) means a container that, in the way prescribed under section 20X(1)(c), exhibits the sign prescribed under that section; (*Added 25 of 2021 s. 3*)

**street waste** (街道廢物) means dust, dirt, rubbish, mud, road scapings or filth, but does not include human excretal matter;

**trade waste** (行業廢物) means waste from any trade, manufacture or business, but does not include animal waste, chemical waste, clinical waste or construction waste; (*Replaced 17 of 2004 s. 2. Amended 6 of 2006 s. 2*)

**waste** (廢物) means any substance or article which is abandoned and includes animal waste, chemical waste, clinical waste, construction waste, e-waste, household waste, livestock waste, street waste and trade waste; (*Amended 86 of 1991 s. 3; 17 of 2004 s. 2; 6 of 2006 s. 2; 3 of 2016 s. 12*)

**waste collection licence** (廢物收集牌照) means a licence under section 10;

**waste disposal authority** (廢物處置當局), in respect of all classes of waste, means the Director; (*Replaced L.N. 74 of 1986*)

**waste disposal licence** (廢物處置牌照) means a licence under section 16;

**waste treatment plant** (廢物處理裝置) means a plant at which waste is treated for the purpose of removing therefrom (wholly or in part) pollutants contained therein; (*Added 58 of 1987 s. 2. Amended 25 of 2021 s. 3*)

**waste vehicle in Government service** (政府用廢物車輛) means a vehicle (whether or not equipped with a device designed for compacting waste carried on the vehicle) that is being used by, or on behalf of, the Director of FEH for removing municipal solid waste and disposing of it at a scheduled facility; (*Added 25 of 2021 s. 3*)

**waste vehicle in private use (with compactor)** (設有壓縮裝置非政府用廢物車輛) means a vehicle (other than a waste vehicle in Government service) that—

- (a) is being used for removing municipal solid waste and disposing of it at a scheduled facility; and
- (b) has an enclosed compartment equipped with a device designed for compacting waste within the compartment; (*Added 25 of 2021 s. 3*)

**waste vehicle in private use (without compactor)** (不設壓縮裝置非政府用廢物車輛) means a vehicle (other than a waste vehicle in Government service) that—

- (a) is being used for removing municipal solid waste and disposing of it at a scheduled facility; and
- (b) is not equipped with a device designed for compacting waste carried on the vehicle; (*Added 25 of 2021 s. 3*)

(*Amended 78 of 1999 s. 7*)

- (2) For the purposes of this Ordinance any substance or article which is discarded or otherwise dealt with as waste shall be presumed to be waste until the contrary is proved.

**18. Penalties for offences under sections 16, 16A, 16B, 16C and 17 and defences**

*(Amended 19 of 2013 s. 5)*

- (1) Any person who commits an offence under section 16, 16A or 16B is liable— *(Amended 19 of 2013 s. 5)*
  - (a) for the first offence, to a fine of \$200,000 and to imprisonment for 6 months;
  - (b) for a second or subsequent offence, to a fine of \$500,000 and to imprisonment for 6 months; and
  - (c) in addition, if the offence is a continuing offence to a fine of \$10,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.
- (1AA) A person who commits an offence under section 16C(6) or (7) is liable to a fine at level 6. *(Added 19 of 2013 s. 5)*
- (1A) Any person who commits an offence under section 17 is liable —
  - (a) for the first offence, to a fine at level 6; *(Amended E.R. 5 of 2021)*
  - (b) for a second or subsequent offence, to a fine of \$200,000 and to imprisonment for 6 months; and
  - (c) in addition, if the offence is a continuing offence to a fine of \$10,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 28 of 1994 s. 15)*
- (2) A person does not commit an offence under section 16, 16A, 16B or 17 if he proves that the waste was disposed of in an emergency to avoid danger to the public and as soon as was reasonably practicable he informed the Director thereof in writing. *(Amended L.N. 76 of 1982; L.N. 74 of 1986; 19 of 2013 s. 5)*
- (3) Subsection (4) applies to a person charged with an offence under section 16 for the storage, treatment, reprocessing or recycling of any e-waste that is not chemical waste. *(Added 3 of 2016 s. 14)*
- (4) It is a defence to the charge for the person to establish that the electrical equipment or electronic equipment concerned did not fall within the definition of that equipment in column 3 of Schedule 6 to the Product Eco-responsibility Ordinance (Cap. 603). *(Added 3 of 2016 s. 14)*
- (5) The person is taken to have established a fact that needs to be established for the defence if—

- (a) there is sufficient evidence to raise an issue with respect to the fact; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt. (*Added 3 of 2016 s. 14*)

*(Amended 28 of 1994 s. 15)*

**20G. Defence of due diligence, etc.**

- (1) A person charged with an offence under this Part has a defence if he proves that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (2) Without limiting the general nature of subsection (1), a person establishes the defence under that subsection if he proves—
  - (a) he acted under instructions from his employer; or
  - (b) he relied on information supplied by another person without reason to believe that the information was false or misleading,
 and in either case that he took all steps reasonably open to him to ensure that an offence would not be committed. (*Amended L.N. 29 of 2004*)
- (3) If a person wishes to rely on a defence involving an allegation —
  - (a) that the commission of the offence was due to an act by or omission of another person (other than acting on the instructions of his employer); or
  - (b) that he relied on information supplied by another person, he is not entitled, without leave of the court, to rely on the defence unless 7 clear days before the hearing, he has served on the prosecutor a notice giving all information he then had that identifies or assists in identifying the other person.
- (4) Subsection (5) applies to a person charged with an offence under section 20E for the import or export of any e-waste that is not chemical waste. (*Added 3 of 2016 s. 17*)
- (5) It is a defence to the charge for the person to establish that the electrical equipment or electronic equipment concerned did not fall within the definition of that equipment in column 3 of Schedule 6 to the Product Eco-responsibility Ordinance (Cap. 603). (*Added 3 of 2016 s. 17*)
- (6) The person is taken to have established a fact that needs to be established for the defence under subsection (5) if—

- (a) there is sufficient evidence to raise an issue with respect to the fact; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt. (*Added 3 of 2016 s. 17*)

**31. Interpretation of Part 4**

In this Part—

**consumer** (消費者) means a person who acquires any regulated electrical equipment otherwise than for distributing it in the course of business;

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

- (a) supply the equipment by way of sale, hire or hire-purchase;
- (b) exchange or dispose of the equipment for consideration; or
- (c) transmit or deliver the equipment for any of the following activities—
  - (i) supplying by way of sale, hire or hire-purchase;
  - (ii) an exchange or disposal for consideration,

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

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

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

**REE Regulation** (《受管制電器規例》) means regulations made under section 44;

**registered supplier** (登記供應商) means a supplier who is registered under section 33;

**removal service plan** (除舊服務方案) means a plan endorsed under section 41;

**residential property** (住宅物業) means any real property constituting a separate unit used, or intended to be used, solely or principally for human habitation;

**return** (申報) means a return submitted under section 38;

**seller** (銷售商) means a person who carries on a business of distributing regulated electrical equipment to consumers, but does not include a person who only provides service for transporting the equipment that does not belong to the person for another person;

**supplier** (供應商) means—

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

**tenant** (租客) includes a person who occupies a residential property under a licence, and **tenancy agreement** (租賃協議) is to be construed accordingly;

**use** (使用), in relation to any regulated electrical equipment, includes—

- (a) exhibit the equipment for business purposes; and
- (b) give the equipment to another person as a prize or gift.

### **35. Recycling label and receipt must be provided when distributing regulated electrical equipment**

- (1) If a registered supplier distributes to a person any regulated electrical equipment mentioned in section 37(1)(a), the supplier must, in accordance with the REE Regulation, provide to the person a recycling label that is appropriate for the equipment.
- (2) If a seller distributes any regulated electrical equipment to a consumer, the seller must, in accordance with the REE Regulation, provide to the consumer—
  - (a) a recycling label that is appropriate for the equipment; and
  - (b) a receipt with the wording prescribed by the Regulation.
- (3) For the purposes of subsection (1) or (2), entering into an agreement to distribute does not constitute distribution.
- (4) For the purposes of subsection (1) or (2), providing regulated electrical equipment to an owner or tenant of a residential property under an agreement for sale and purchase, tenancy agreement or renovation agreement for the property without charging specifically for the equipment does not constitute distributing the equipment.
- (5) A person who contravenes subsection (1) or (2) commits an offence and is liable to a fine at level 5.

**36. Director must provide recycling labels**

- (1) If a registered supplier applies to the Director in a form specified by the Director for recycling labels of a particular class, the Director must, subject to subsection (2), provide those labels to the supplier.
- (2) If the Director considers that the number of the recycling labels applied for is, having regard to the registered supplier's state of business, more than reasonably necessary for complying with section 35, the Director may refuse the application.
- (3) If a person—
  - (a) requests to be provided with recycling labels of a particular class at a location specified by the Director; and
  - (b) pays to the Director a recycling levy that is appropriate for the labels,the Director must, subject to subsection (4), provide those labels to the person.
- (4) The Director may set a limit on the number of recycling labels that may be provided to a person under subsection (3) for each request.

**44. Secretary may make regulations for Part 4**

- (1) The Secretary may, after consulting the Advisory Council on the Environment, make regulations in respect of all or any of the following matters—
  - (a) an application for registration under section 33 and the determination of the application;
  - (b) the cancellation of registration under section 34;
  - (c) the provision of recycling labels for each class of regulated electrical equipment by registered suppliers and sellers;
  - (d) the recycling levy for each class of regulated electrical equipment;
  - (e) the payment of recycling levies by registered suppliers;
  - (f) the submission of returns by registered suppliers;
  - (g) the information to be contained in the returns;
  - (h) the records and documents to be kept by registered suppliers;
  - (i) the submission of audit reports by registered suppliers;

- (j) the prescribed wording for the purposes of section 35(2) (b);
  - (k) the requirements of the removal service plan;
  - (l) the removal service required by section 42.
- (2) A regulation made under subsection (1) is subject to the approval of the Legislative Council.

## 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).

### **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) The registered supplier may provide the label by affixing it to the regulated electrical equipment or otherwise. (*L.N. 142 of 2017*)

#### **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.

## **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.

## **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) The seller may provide the label by affixing it to the regulated electrical equipment or otherwise. (*L.N. 142 of 2017*)

**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.

**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.

## 2. Purposes of this Ordinance

- (1) The purposes of this Ordinance are—
  - (a) to minimize the environmental impact of various types of products, which may include plastic shopping bags, vehicle tyres, electrical and electronic equipment, packaging materials, beverage containers and rechargeable batteries; and
  - (b) to that end, to introduce producer responsibility schemes, schemes based on the “polluter pays” principle, or other measures, which may require manufacturers, importers, wholesalers, retailers, consumers or any other parties to share the responsibility for the reduction in the use, or the recovery, recycling or proper disposal, of those products.
- (2) Such schemes or measures may include (but are not limited to) the following—
  - (a) a product take-back scheme under which a manufacturer, importer, wholesaler or retailer is required to collect certain products for proper waste management;
  - (b) a deposit-refund scheme under which a consumer is required to pay a deposit to be refunded on the return of certain products to a specified collection point;
  - (c) the imposition of a recycling levy or fee to finance the proper waste management of certain products; (*Amended 3 of 2016 s. 3*)
  - (d) the imposition of an environmental levy or a charge to discourage the use of certain products; and (*Amended 4 of 2014 s. 3*)
  - (e) the restriction on the disposal of certain products at any designated waste disposal facility as defined in section 2 of the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg. L).

## 3. Interpretation

- (1) In this Ordinance, unless the context otherwise requires—  
**authorized officer** (獲授權人員) means a public officer authorized under section 6;

**body corporate** (法人團體) means—

- (a) a company as defined by section 2(1) of the Companies Ordinance (Cap. 622); or
- (b) a company incorporated outside Hong Kong; (*Added 4 of 2014 s. 4*)

**Director** (署長) means the Director of Environmental Protection;

**plastic shopping bag** (塑膠購物袋) means a plastic shopping bag to which this Ordinance applies according to section 18;

**prescribed product** (訂明產品) means any product mentioned in section 4;

**product** (產品) includes any article, material and substance;

**regulated electrical equipment** (受管制電器) means electrical equipment or electronic equipment that—

- (a) is set out in column 2 of Schedule 6 and is defined in column 3 of that Schedule; and
- (b) has not been used by any consumer as defined by section 31,

but does not include e-waste as defined by section 2(1) of the Waste Disposal Ordinance (Cap. 354); (*Added 3 of 2016 s. 4*)

**Secretary** (局長) means the Secretary for Environment and Ecology. (*Amended L.N. 144 of 2022*)

(2) In this Ordinance, unless the context otherwise requires—

- (a) a reference to any product includes a reference to any part of the product;
- (b) a reference to a function includes a reference to a power and a duty; and
- (c) a reference to the performance of a function includes a reference to the exercise of a power and the discharge of a duty.

#### 4. Prescribed products to which Part 2 applies

This Part applies in relation to plastic shopping bags and regulated electrical equipment.

(*Amended 3 of 2016 s. 5*)

#### 5. General provisions as to regulations made under this Ordinance

- (1) In this section, **regulation** (規例) means any regulation made under section 29 or 44. (*Amended 3 of 2016 s. 6*)
- (2) A regulation may do all or any of the following—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
  - (b) make different provisions for different circumstances and provide for a particular case or class of cases;
  - (c) empower the Secretary or Director to grant exemptions from any requirement, either generally or in a particular case;
  - (d) provide for the performance by the Director or an authorized officer of any function under the regulation;
  - (e) authorize any matter or thing to be determined, applied or administered by a specified person or group of persons;
  - (f) prescribe any matter that by this Ordinance is required or permitted to be prescribed by a regulation;
  - (fa) specify an appealable matter mentioned in section 13; *(Added 3 of 2016 s. 6)*
  - (g) provide for such incidental, consequential, evidential, transitional, savings and supplemental provisions as are necessary or expedient for giving full effect to the provisions of this Ordinance;
  - (h) generally provide for the better carrying out of the provisions and purposes of this Ordinance.
- (3) A regulation may make it an offence for a person to do or omit to do any specified act and may authorize—
- (a) the imposition of a fine, not exceeding \$500,000, for such an offence;
  - (b) if the offence is a continuing one, the imposition of a further fine of \$10,000 for each day or part of a day during which the offence has continued; and
  - (c) the imposition of a sentence of imprisonment for a period of not more than 12 months.

---

## **Schedule 1**

[ss. 18(1) & 21(1) & (2)]

### **Plastic Shopping Bags to which this Ordinance Applies**

#### **1. Meaning of plastic shopping bags**

- (1) A bag made wholly or partly of plastic is a plastic shopping bag to which this Ordinance applies, whether or not there is a handle, handle hole, perforated line for tearing out a handle hole, carrying string or strap, or any other carrying device on, or attached to, the bag. *(Replaced 4 of 2014 s. 18)*
- (2) For the purposes of subsection (1), **plastic** (塑膠) includes polyethylene, polypropylene, polyvinyl chloride and nylon. *(Amended 4 of 2014 s. 18)*

**113C. Provision for fines for offences**

- (1) In this section, ***excluded fine*** (非規定罰款) means—
- (a) a fine of an amount greater than the maximum amount set out in the table in subsection (2);
  - (b) a daily fine or daily penalty; and
  - (c) a fixed penalty within the meaning of the Housing Ordinance (Cap. 283), the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237), the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240), the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570), the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) or the Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap. 611). (*Amended 24 of 2001 s. 20; 26 of 2008 s. 19; 3 of 2011 s. 33; 4 of 2016 s. 8*)
- (2) Where an Ordinance provides for a fine, other than an excluded fine, for an offence expressed as an amount of money, the fine shall be deemed to be a fine at the level relevant to the amount of the fine in the following table—

Table

Fine	Level applied
\$1 to \$2,000	Level 1
\$2,001 to \$5,000	Level 2
\$5,001 to \$10,000	Level 3
\$10,001 to \$25,000	Level 4
\$25,001 to \$50,000	Level 5
\$50,001 to \$100,000	Level 6

- (3) Where a provision in an Ordinance specifies a fine, other than an excluded fine, expressed as an amount of money that may be prescribed under subsidiary legislation, the fine shall be deemed to be a fine at the level relevant to the amount of the fine in the table in subsection (2).
- (4) The Chief Executive in Council may by regulation amend the amounts set out in the table in subsection (2) to reflect his opinion of the effect of inflation on the value of the amounts set out in the table since the date when this section came into operation or since the date that the amounts in the table were last amended. (*Amended 39 of 1999 s. 3*)

(5) *(Repealed 13 of 2011 s. 36)*

*(Added 58 of 1994 s. 2)*

## **Implications of the Proposal**

### **Environmental Implications**

#### *Regulation of disposable plastic tableware and other plastic products*

The proposed regulation, if implemented, will not only help reduce the use of disposable plastic tableware and other plastic products at source, but also greatly raise public awareness on going “plastic-free” and the importance of reducing plastics in daily life effectively. This is consistent with the “reduce” element in our “4R”<sup>1</sup> principle in waste management. It can help bring about positive environmental outcomes in terms of reduced municipal solid waste disposal at landfills and reduced consumption of natural resources for producing new plastic products, and hence will be conducive to the achievement of the medium-term goal under the Waste Blueprint for Hong Kong 2035, which is to gradually reduce the per capita municipal solid waste (MSW) disposal rate by 40-45% and raise the recovery rate to about 55% by implementing MSW Charging.

2. The proposed regulation will also help minimise negative impacts on the environment and human health by reducing the possibility of plastics entering the ecosystem, particularly in the form of micro-plastics in marine environment and food chain.

#### *Enhancement of existing PRSs*

3. The proposed expansion of WPRS to cover more REE items will help ensure proper treatment and recycling of these products in Hong Kong, reducing the risk of the hazardous materials from these products contaminating the environment and damaging human health. It will also help relieve the increasing pressure on landfills.

4. The proposed enhancement of the WPRS and GPRS will streamline the operations of the both PRSs, reducing the use of paper in the production of recycling labels and in preparing a large number of payment notices each quarter, thus contributing to waste reduction.

---

<sup>1</sup> “4R” refers to reduce, reuse, recycle and recover.

## **Sustainability Implications**

### *Regulation of disposable plastic tableware and other plastic products*

5. The proposed regulation is premised on the “reduce” element of the “4R” waste management principle, and is consistent with the guiding principle for sustainability in respect of environmental quality. Other than the environmental implications above, the proposed regulation can help Hong Kong to proactively avoid environmental problems for present and future generations, minimise unwanted side effects of development by achieving waste reduction and recycling, and enhance community-wide awareness of environmental protection.

### *Enhancement of existing PRSs*

6. The proposed expansion of WPRS to cover more REE is in line with the “polluter pays” principle, and is consistent with the guiding principle for sustainability in respect of environmental quality, which helps Hong Kong to further proactively avoid environmental problems for present and future generations and minimise unwanted side effects of development.

7. The proposed streamlining of the operation of the WPRS and GPRS will contribute to reduction in paper usage, which is consistent with the guiding principle for sustainability in respect of natural resources.

## **Economic Implications**

### *Regulation of disposable plastic tableware and other plastic products*

8. The proposed regulation will reduce the negative externality of the environmental problem created by plastic products. Yet, it will incur some administration and compliance costs to businesses, with impact to be felt more significantly by small and medium enterprises in the retail and catering sectors. Some of the additional costs may be passed on to consumers. Meanwhile, manufacturers and suppliers of disposable plastic tableware and other plastic products may suffer some business loss at the beginning stage of the regulation.

9. Nonetheless, with the advancement in technologies and the rising global demand, it is believed that more economical, reliable and eco-friendly non-plastic alternatives will be available in the market, and that the costs of these alternatives will also come down over time. Having taken into account the availability and affordability of non-plastic alternatives in the market, the proposed phased implementation of the regulation will help reduce the compliance cost and smooth out the impact on businesses and consumers.

#### *Enhancement of existing PRSs*

10. The WPRS has been fostering a circular economy, promoting technological upgrade in local recycling of waste electrical and electronic equipment, and creating job opportunities. While the expansion of its scope will likely incur additional compliance costs for consumers and different parties along the supply chain, the proposed optimisation in the operation of the WPRS and GPRS to remove the requirement on provision of recycling labels and allow serving payment and assessment notice through electronic means will provide some offset.

### **Financial and Civil Service Implications**

#### *Regulation of disposable plastic tableware and other plastic products*

11. It is not our policy intent to raise government revenue through the proposal. Though there is no levy or rebate element under the proposed regulation, there may be income to the general revenue of the Government from the fixed penalty system upon implementation of the regulation. We do not expect the amount to be significant.

12. No additional resources will be required by the EPD in introducing the Amendment Bill to the LegCo for scrutiny. Resources that may be required for putting forward the proposal (e.g. carrying out inspections/enforcement) will be ascertained at a later stage. Additional resources (e.g. for inspections/enforcement), if required, will be sought at an appropriate juncture with justifications in accordance with the established mechanism.

#### *Enhancement of existing PRSs*

13. While there is no additional manpower requirement for enhancing

the operation of WPRS and GPRS, the expansion of the treatment capacity of the WEEE-PARK is needed to handle more REE items covered by the WPRS after its expansion. Based on initial estimation, it will incur a capital cost of around \$10 million in money-of-the-day prices<sup>2</sup> and an annual operating cost of around \$28 million<sup>3</sup>, which will be recovered by the Government through the recycling levy imposed on the new REE items covered by the expanded WPRS. The EPD has reserved the resources required for setting up the designated electronic system for enhancing the operation of GPRS.

---

<sup>2</sup> The capital cost for upgrading of plants and equipment will be met by the existing project vote of the WEEE-PARK.

<sup>3</sup> EPD will endeavour to absorb the operating cost from within its existing resource as far as possible. Additional resources, if required, would be sought in accordance with the established mechanism.

## **Public Consultation on the Scheme on Regulation of Disposable Plastic Tableware**

### **Summary of Findings**

#### **Introduction**

In order to reduce the use of disposable plastic tableware at source with a view to minimising the impacts of plastic pollution on the marine environment and human health and mitigating climate change, the Environmental Protection Department (“EPD”) conducted a two-month public consultation on the Scheme on Regulation of Disposable Plastic Tableware (“the Regulation Scheme”) on 9 July 2021. The findings of the public consultation are summarised as follows.

#### **Public consultation process**

2. To allow and encourage more members of the public to express their views on the Regulation Scheme, the EPD made use of TV and radio announcements, posters, leaflets and the dedicated website, and collect views from the public and stakeholders via online view collection form. Over 430 000 visits were recorded for the dedicated website of the public consultation exercise. Members of the public could also submit their views by post, email or fax by completing the response form.

3. The two-month public consultation completed on 8 September 2021. A total of 8 552 submissions were received, of which 65% were submitted via the online view collection form, while the remainder were submitted via the response form or in writing via email, post or fax.

4. In addition, consultation forums also served as an important platform for gauging public and stakeholders’ views on the issues set out in the public consultation document. Amid the epidemic, EPD engaged the Hong Kong Productivity Council to hold five online public consultation forums. Over 250 members of the public and representatives from the food & beverage (“F&B”) trade, tableware suppliers, green groups, healthcare sector, retail sector, chambers of commerce and recycling industry were invited to attend the forums, and about 60 of them expressed their views on the Regulation Scheme at the fora.

5. During the public consultation, EPD also kept a close watch over the media coverage of the Regulation Scheme, of which there are nine media reports

and 70 online articles and comments posted on social media.

6. Furthermore, among the more than 8 500 submissions, some members of the public and stakeholders chose written submission over the response form to submit their views on the Regulation Scheme. During the public consultation period, EPD also received 47 and 35 written submissions put forward by organisations and individuals, respectively.

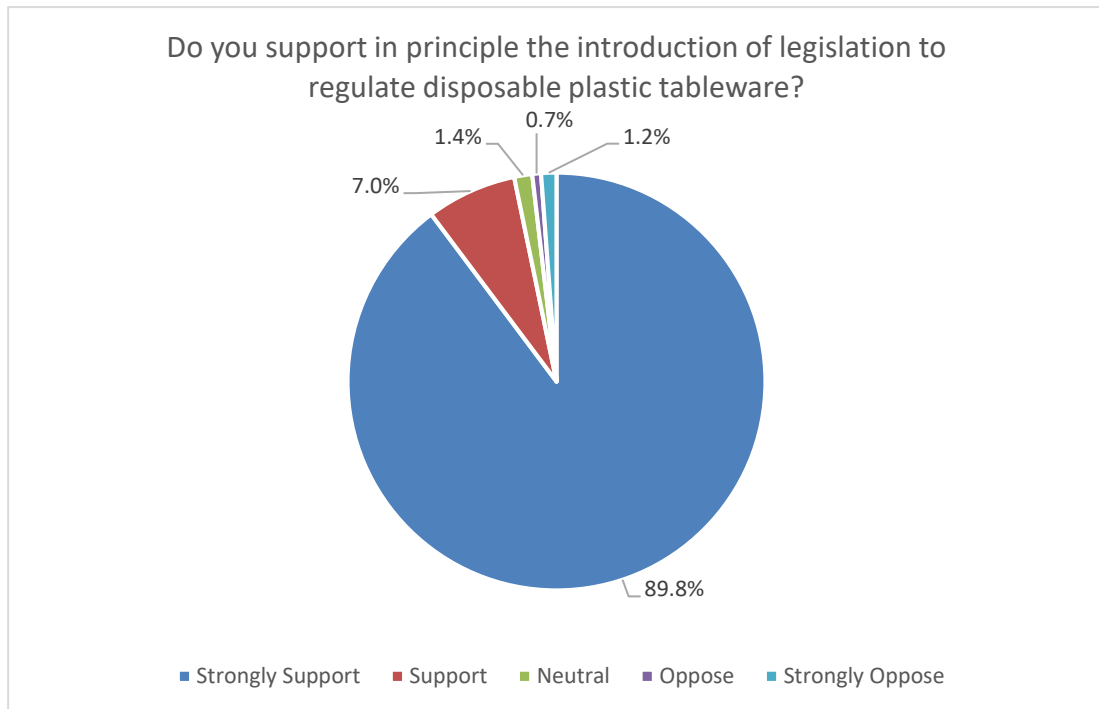
### **Key Findings of the Public Consultation**

7. During the two-month public consultation period, EPD received a total of 8 552 responses, the majority of which were submitted by individuals. The distribution is set out as follows:

<b>Stakeholders</b>	<b>Submission (no.)</b>	<b>Percentage</b>
Individuals	8 333	97.4%
F&B industry/union	28	0.3%
Tableware supplier	23	0.3%
Green group	40	0.5%
Professional organisation / Academic institution	28	0.3%
Others	100	1.2%
<b>Total</b>	<b>8 552</b>	<b>100%</b>

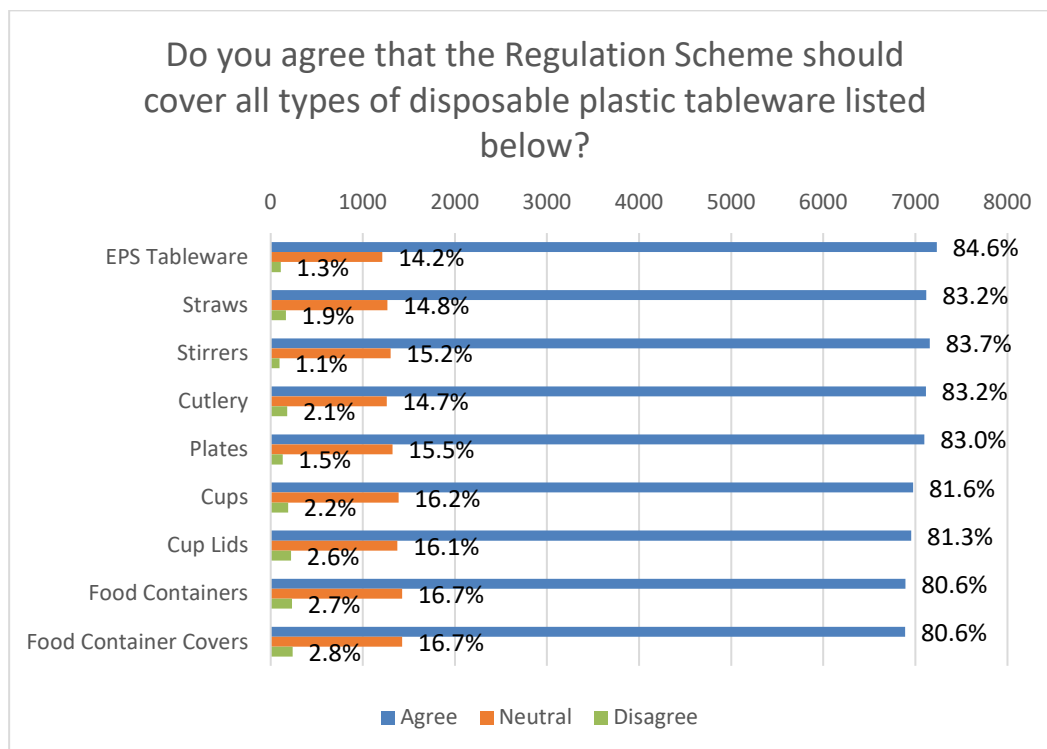
8. The results and analysis of the questions set out in the consultation document are summarised as follows:

**Question 1: Do you support in principle the introduction of legislation to regulate disposable plastic tableware?**



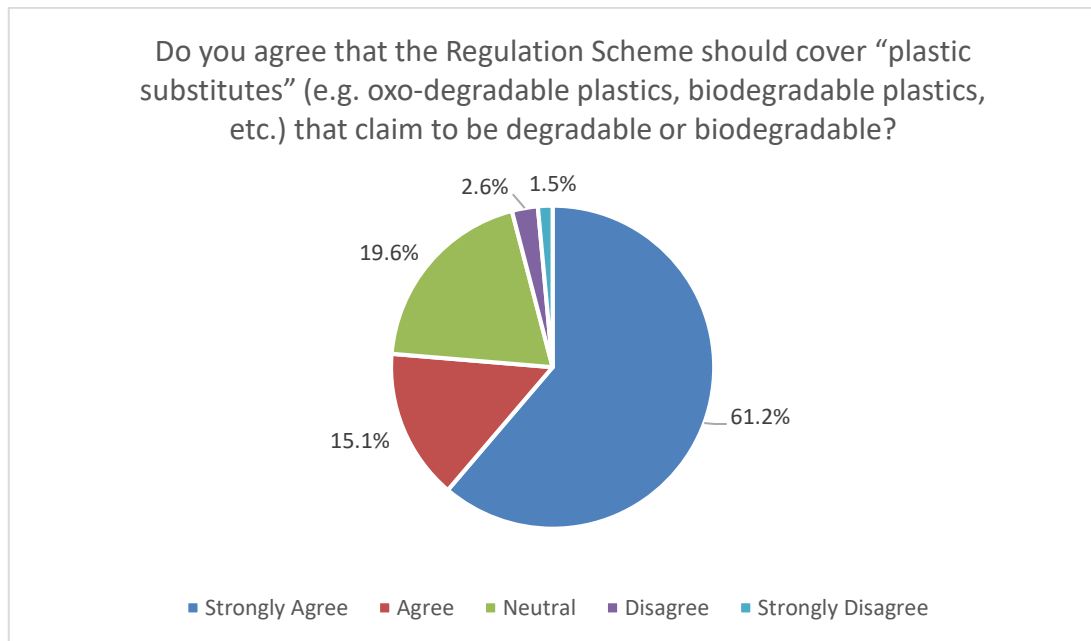
- Over 90% of the comments supported in principle the introduction of legislation to regulate disposable plastic tableware progressively in Hong Kong. Some of the comments suggested that the Government might consider implementing the regulation as soon as possible since disposable plastic tableware had far-reaching impacts on the environment. Only less than 2% of the respondents opposed the introduction of legislation to regulate disposable plastic tableware.

**Question 2a: Do you agree that the Regulation Scheme should cover all types of disposable plastic tableware?**



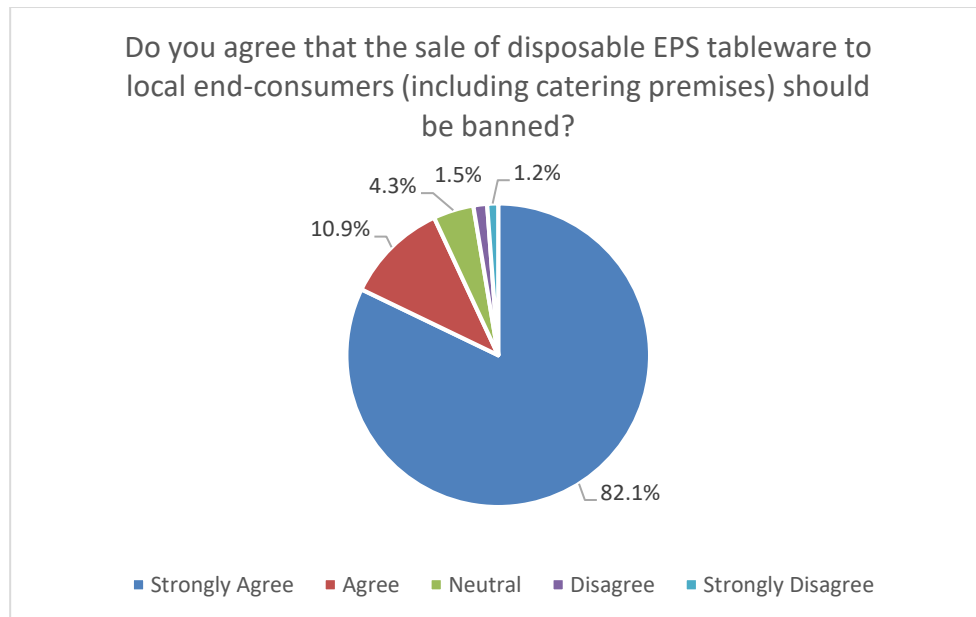
- Over 80% of the comments agreed that the Regulation Scheme should cover the nine types of disposable plastic tableware. The majority (about 70 to 80%) of the comments from the catering sector and tableware suppliers agreed with the regulation of expanded polystyrene (EPS) tableware, straws, stirrers, cutlery and plates (i.e. tableware small in size and with proven alternatives), and about 60 to 70% of the comments agreed with regulating cups, cup lids, food containers and food container covers (i.e. tableware without many matured alternatives in the market). Only less than 2% to 3% of the comments disagreed.

**Question 2b: Do you agree that the Regulation Scheme should cover “plastic substitutes” (e.g. oxo-degradable plastics, biodegradable plastics, etc.) that claim to be degradable or biodegradable?**



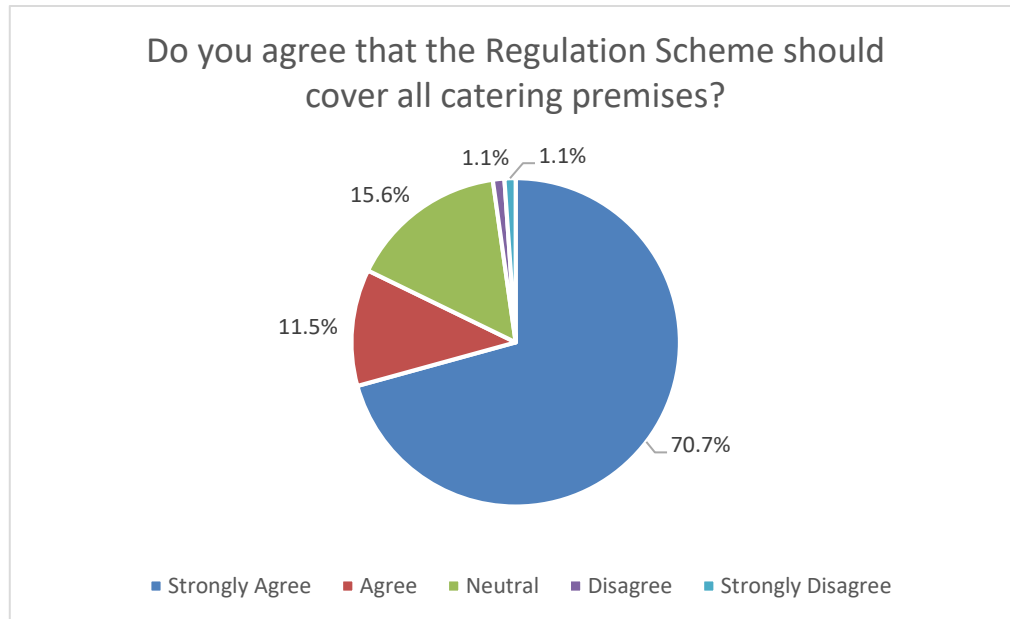
- Over 70% of the comments agreed that the Regulation Scheme should cover “plastic substitutes” that claim to be degradable or biodegradable. Only about 4% of the comments disagreed with the regulation of “plastic substitutes”.

**Question 3: Do you agree that the sale of disposable EPS tableware to local end-consumers (including catering premises) should be banned?**



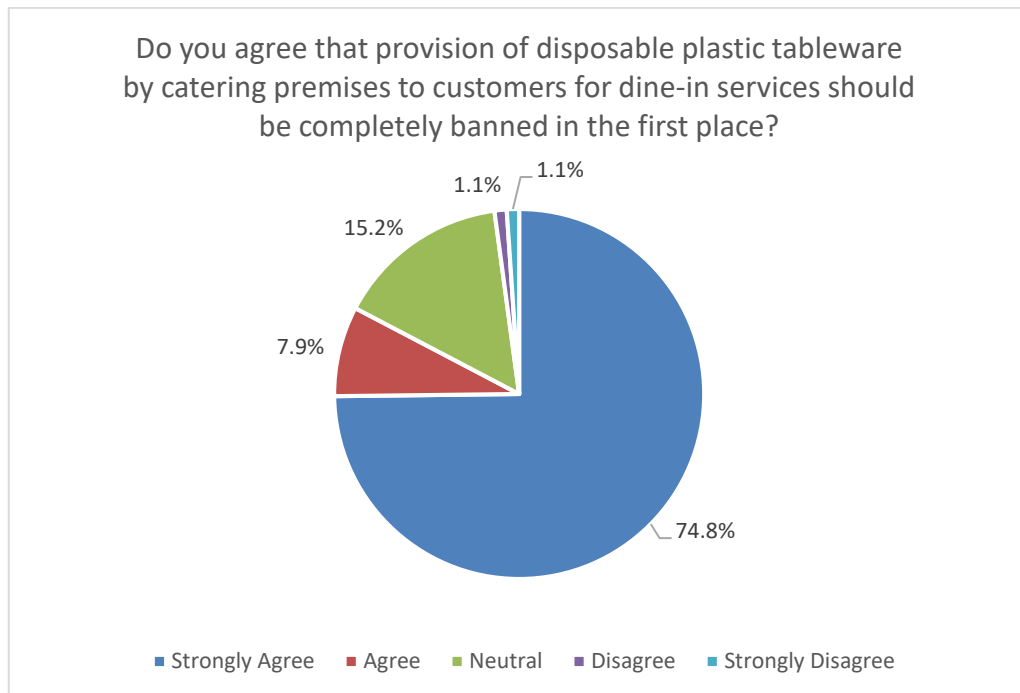
- Over 90% of the comments agreed that the sale of disposable EPS tableware to local end-consumers should be banned under the Regulation Scheme, while only less than 3% disagreed.

**Question 4: Do you agree that the Regulation Scheme should cover all catering premises?**



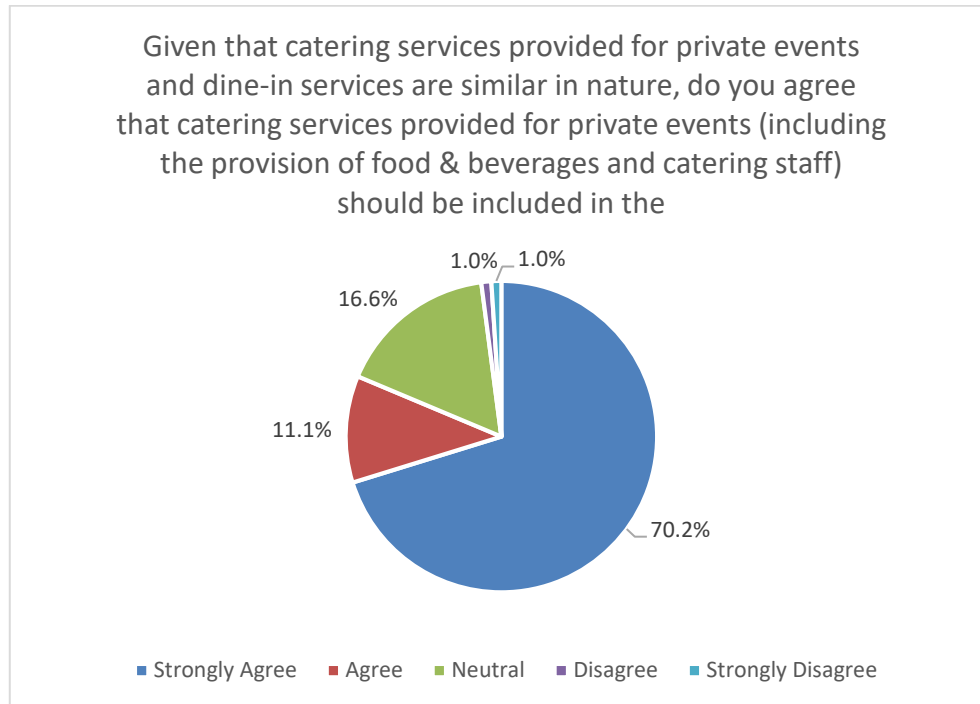
- Over 80% of the comments agreed that the Regulation Scheme should cover all catering premises (i.e. including restaurants, fast-food shops, Chinese restaurants, congee shops, staff canteens, school canteens, cooked food stalls operating in markets, etc.), while only less than 3% disagreed.

**Question 5: Do you agree that provision of disposable plastic tableware by catering premises to customers for dine-in services should be completely banned in the first place?**



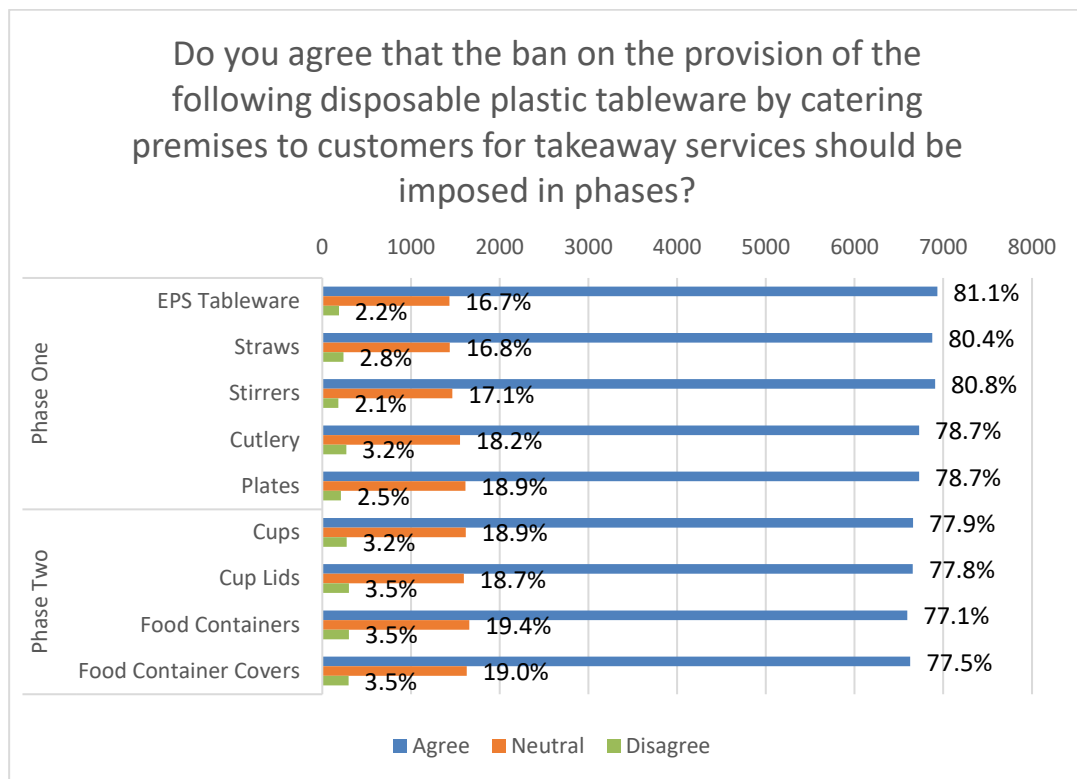
- Over 80% of the comments agreed with the ban, while over 15% were neutral. Only less than 3% of them disagreed.

**Question 6: Given that catering services provided for private events and dine-in services are similar in nature, do you agree that catering services provided for private events (including the provision of food & beverages and catering staff) should be included in the scope of dine-in services?**



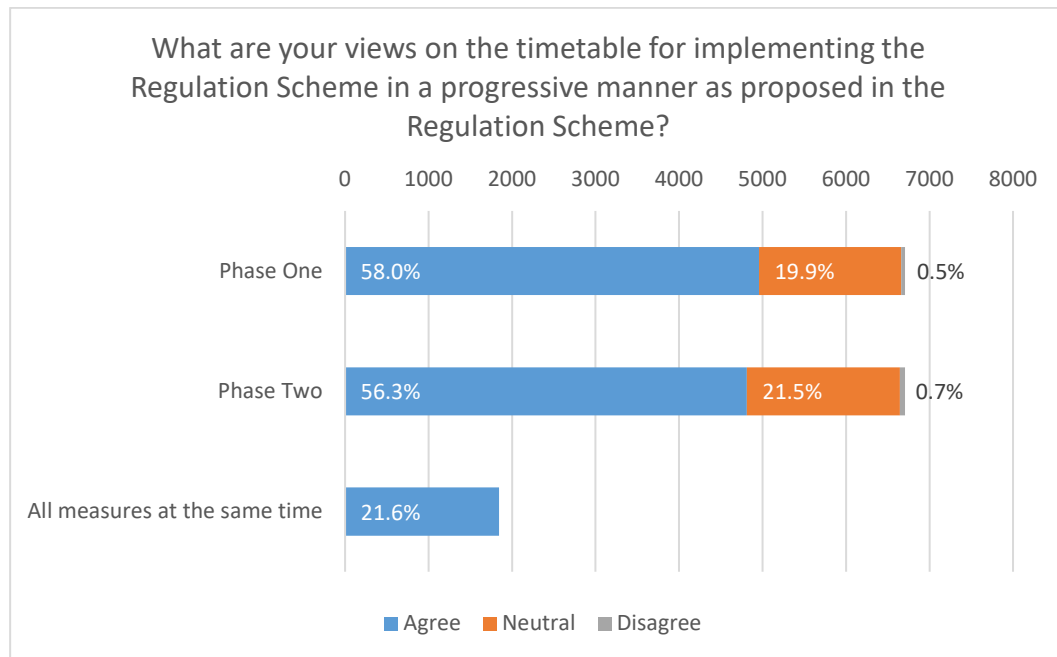
- Over 80% of the comments agreed that catering services be included, while over 15% were neutral. Only 2% of them disagreed.

**Question 7: Do you agree that a ban on the provision of disposable plastic tableware by catering premises to customers for takeaway services should be imposed in phases?**



- Over 80% of the comments supported the proposal to progressively regulate the provision of various types of disposable plastic tableware to customers for takeaway services in two phases, while only about 2 to 4% disagreed.

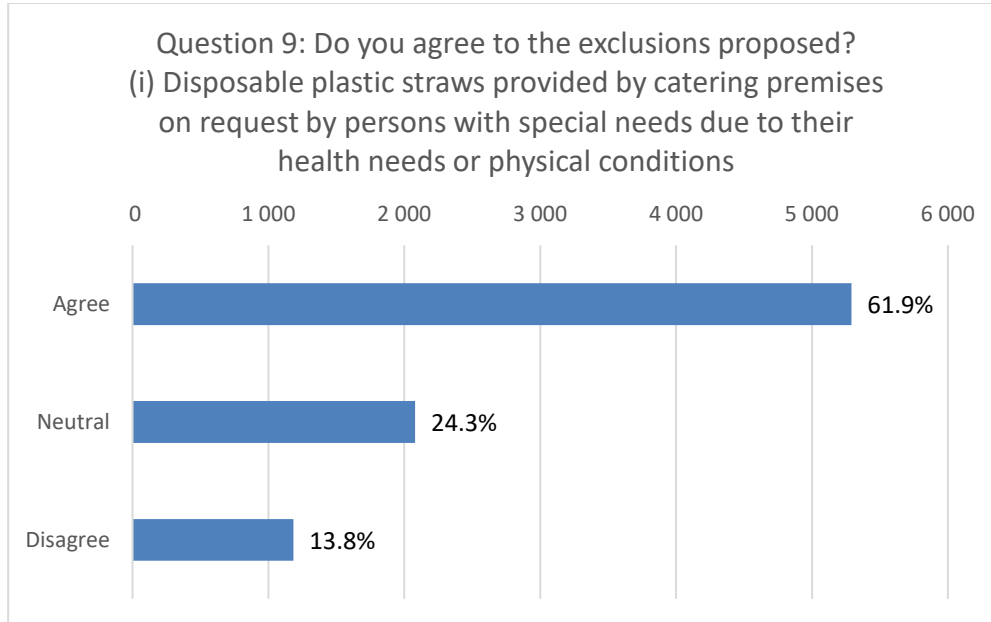
**Question 8: What are your views on the timetable for implementing the Regulation Scheme in a progressive manner as proposed in the Regulation Scheme?**



- More than half of the comments agreed with the implementation details of the two phases, while about 20% opined that all measures of the Regulation Scheme should be implemented at the same time instead.

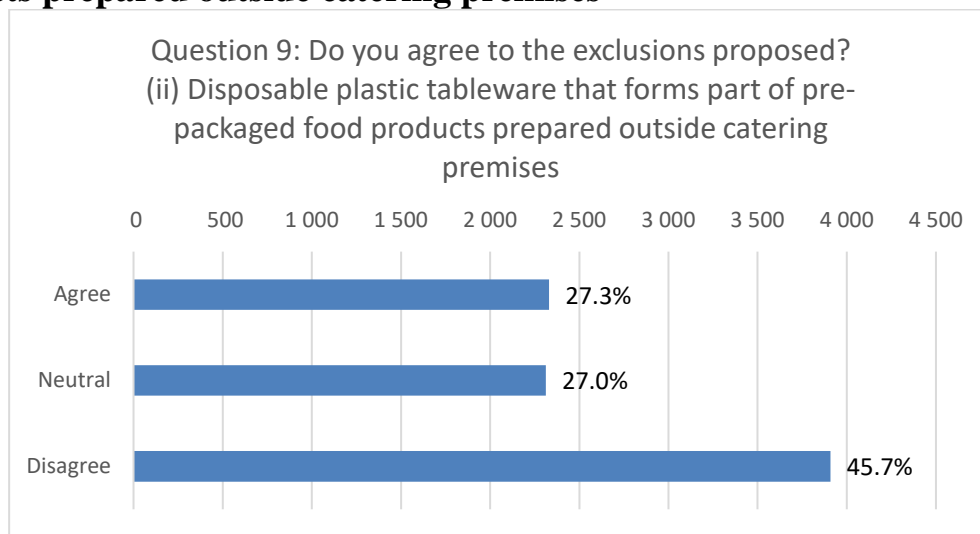
### Question 9: Do you agree to the exclusions proposed?

- (i) **Disposable plastic straws provided by catering premises on request by persons with special needs due to their health needs or physical conditions**



- About 60% of the comments supported the provision of disposable plastic straws by catering premises to persons with medical needs, while only 10% disagreed.

**(ii) Disposable plastic tableware that forms part of pre-packaged food products prepared outside catering premises**



- About half of the comments either agreed or stayed neutral to the proposed exclusion, of which most of them acknowledged that the disposable plastic tableware forms part of the commodity in nature as they are usually manufactured by local or even overseas food manufacturers in factories outside catering premises, it would be difficult for the catering premises to control. On the other hand, about 45% opposed the exclusion and considered that this might create a loophole.

## 24 Recommendations by the Council for Sustainable Development (SDC)

### [Extract from the SDC Report]

### 3. Recommendations

- 3.1. All the views and feedback collected and received from the engagement events held, telephone interviews and the public interaction phase have been recorded and analysed. The results are summarised in **Chapter 5** below. These results provide a solid basis for SDC to formulate recommendations proposing the key directions for Hong Kong's control of single-use plastics.
- 3.2. The SDC has put forth 24 recommendations across five key areas:
- A. General principles on prioritising the control of single-use plastics
  - B. New control measures
  - C. Enhancing the Plastic Shopping Bag (PSB) Charging Scheme
  - D. Publicity and public education
  - E. Green merchandise
- 3.3. The recommendations consist of a series of short-term (within 3 years) and medium-term (3 - 5 years) initiatives, ranging from new control measures, enhancement of current scheme, stepping up education and raising awareness, to embracing green lifestyle.

#### **A. General principles on prioritising the control of single-use plastics**

- 3.4. The Government should demonstrate its determination to promote a plastic-free culture in society. The Government should stand steadfast in inculcating the concept of eliminating / minimal use of single-use plastics in the community. Single-use plastic items should only be used when they are absolutely essential (e.g. for health or hygiene reasons) and without non-plastic alternatives. Even when the above principles are met, the environmental impact of single-use plastics should still be minimised via reuse, recycle and proper disposal. When considering which single-use plastic products to tackle, it is recommended that the following key factors be taken into account:
- Degree of necessity
  - Availability of reasonable alternatives
  - Whether the plastic material is difficult to recycle
- 3.5. Currently, landfills are the major waste treatment outlet in Hong Kong. There is a lack of evidence that various "new plastics" in the market, including but not limited to biodegradable, compostable and bio-based plastics, would fully degrade in the actual and anaerobic landfill environment. Hence, any control measure on single-use plastics shall cover such "new plastics" as well. Besides, the mixing of these "new plastics" with plastics collected through current channels and processed by existing machineries will affect the recyclability of the latter as their material properties are different and the "new plastics" are difficult to be separated.

#### **B. New control measures**

##### **i. Banning the sale of single-use plastic product**

- 3.6. Imposing a ban on the sale of certain single-use plastic products is a powerful control measure suitable for single-use plastic products with readily available alternatives, or products that are not essential. The Government should review the effectiveness of relevant control measures from time to time and make adjustments where necessary.

#### *Short-term measure*

- B1) Disposable plastic tableware sold at retail outlets, plastic stemmed cotton buds, inflatable cheer sticks and balloon sticks for parties / celebrations are some examples of such items as reflected in the public engagement process. Noting that the Government is planning to restrict the distribution of disposable plastic tableware at catering premises in phases, imposing a similar ban on the sale of such single-use plastic items at retail outlets, with exclusions under special circumstances, will serve to strengthen the effectiveness of the control measure in reducing disposable plastic tableware. The Government may also explore banning the sale of other single-use plastic products.



### **ii. Banning the free distribution of single-use plastic product**

- 3.7. Some single-use plastic products are currently distributed to consumers for free. For such products, banning their sale may not be the most effective way of control. Instead, it is recommended that the Government explores banning the free distribution of such products.

#### *Short-term measure*

- B2) As reflected from the public engagement process, some examples of such product include umbrella bag and hotel toiletries. The Government may also explore banning the free provision / distribution of other single-use plastic products.
- B3) Appropriate alternatives like the use of umbrella dryer, installation of wall-mounted dispensers for shampoo / shower gel, providing water filter jugs instead of plastic bottled water should also be promoted.



### **iii. Banning the manufacturing, sale and distribution of single-use plastic product**

- 3.8. Throughout the public engagement, the public has indicated concern towards various surge of “degradable plastic” products in the market, in particular, the fact that such product may not be able to fully degrade in Hong Kong’s waste management system.

#### *Short-term measure*

- B4) In view of the environmental concerns of oxo-degradable plastics<sup>3</sup>, there is a trend of banning the manufacturing, sale and distribution of oxo-degradable plastic products in other places (e.g. Australia, European Union (EU), Scotland, New Zealand), the Government should follow suit on this front.

<sup>3</sup> Oxo-degradable plastics are produced by adding degradable additives to conventional plastics, which can accelerate the process of fragmentation when the plastics are exposed to UV radiation or heat. However, tiny plastic fragments will still remain after degradation.

B5) The Government may also explore banning the manufacturing / sale / distribution of other single-use plastic products, say, certain expanded polystyrene (EPS) (i.e. polyfoam) product as they are much bulkier and more difficult to recycle comparing with other plastics.



#### **iv. Other regulatory / voluntary measures**

- 3.9. Certain trade-specific single-use plastic products such as different types of packaging are serving key functions from logistics, hygiene and merchandise-protection perspectives.
- 3.10. It is recognised under the EU Directive on Packaging and Packaging Waste that packaging has a vital social and economic function, and any legislative requirements under the Directive should apply without prejudice to other relevant legislative requirements governing the quality and transport of packaging or packaged goods.
- 3.11. Further, it is pointed out in the said Directive that the amount of packaging shall be kept “to the minimum amount to maintain the necessary level of safety, hygiene and acceptance for the packed product and for the consumer”. Sustainable packaging should be used to minimise environmental impact and carbon footprint.

##### *Short-term measure*

B6) Throughout the PE process, it is generally recognised that it would be more difficult to phase out all packaging entirely due to logistics, hygiene and merchandise-protection reasons. At the same time, a strong call from the society to regulate excessive packaging is noted, especially those made of single-use plastics for use in retail, logistics trade and online shopping, as reflected in the views collected during the PE process. The Government should, with reference to the experiences of the governments and businesses in the Mainland and overseas, request the relevant trades to proactively reduce the use of plastic packaging materials (including polyfoam). Meanwhile, the Government should also explore using administrative and legislative means for effective control. Take local packaging as an example, local supermarkets may explore further plastic-reduction measures, such as avoiding the use of polyfoam for add-on packaging; minimising the repackaging of imported goods, and, if repackaging is necessary, to use non-plastic packaging / plastic packaging with recycled content as far as possible.



B7) There are views suggesting that the Government should, regardless of the origin of products, impose control measures across the board on plastic packaging materials of both local and imported products. The Government may take this into account when formulating suitable control measures on packaging.

##### *Medium-term measure*

B8) Consumers in general are willing to support brands which have shouldered more “corporate environment responsibility”. The Government should explore ways to enhance the transparency of environmental measures being put forward by the private sector.

**v. Preparatory arrangement is required for all regulatory measures**

- 3.12. Before introducing any regulatory measures, the trade considers it necessary to introduce a preparatory period for allowing manufacturers, retailers and consumers to get prepared for the new arrangement and to clear existing stock. The Government may, with reference to the implementation of past regulatory measures / the practice of other places, design suitable transitional arrangement as appropriate. However, the transition period is suggested not to be too long and the regulatory measures should be reviewed from time to time to evaluate their effectiveness.

**C. Enhancing the Plastic Shopping Bag (PSB) Charging Scheme**

- 3.13. The ultimate goal is to phase out free PSB. Shoppers are strongly encouraged to bring their own shopping bags (including freezer bags) and / or containers.

*Short-term measure*

- C1) The scope of exemption under the PSB Charging Scheme in place should be tightened in order to further reduce the use of PSB. Clear definitions of exempted products and implementation guidelines should be given to avoid grey areas.

- C2) Many consider the present exemption for PSBs carrying frozen / chilled foodstuff can be removed. This may be due to the fact that most frozen / chilled foodstuff is already in airtight packaging, and that PSBs cannot serve any function to prevent the condensation of water droplets on frozen / chilled foodstuff or maintain their temperature.



- C3) There are concerns towards multiple layers of packaging under the present Scheme, as PSBs carrying foodstuff in “non-airtight packaging” are exempted from PSB charge. It is recommended that for foodstuff that is already fully wrapped by any packaging, a free PSB should not be provided.



- C4) The public generally consider the use of PSBs is necessary for carrying foodstuff without any packaging like raw meat and fresh fish and vegetables. For such cases, exemption should be provided.

- C5) However, the public also consider the number of free PSB to be provided under this exemption (referring to recommendation C4) should be limited to one. That said, the public have no clear indication towards whether one free PSB should be provided for every piece of exempted product or should carry several pieces of one or more types of exempted products. As the matter would be affected by the types, sizes and quantities of the products in each purchase, it is recommended that flexibility be allowed, and more detailed guidelines on the operational arrangement be provided to avoid confusion.

- C6) To remind the public that using PSBs is “with cost” and to further discourage their use, the present charging level of 50 cents is recommended to be increased with reference to the charging level of other cities.
- C7) On the appropriate charging level, the public generally prefer a rounded amount to the nearest dollar, and raising the charge to \$1 or \$2 is considered useful in driving behavioural change. The retailers should be encouraged to use the PSB charge received for supporting or organizing green programmes or promotions. The Government may provide guidelines in this aspect.
- C8) The Government should prepare detailed guidelines targeting different affected retail outlets to ensure smooth implementation of the enhanced Scheme.
- C9) Tightening the scope of exemption is a substantial change to the Scheme. Retail outlets that are distributing free PSBs under the current exemptions may not be able to do so in the future, e.g. stores at the wet markets. Considering the potential impact on the retail sector’s operational arrangement, a preparatory period is recommended to allow smooth transition.
- C10) With the passage of the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Bill 2018 in August 2021, under which the public will be required to use designated bags<sup>4</sup> for waste disposal, there is room to explore whether there could be synergy between the MSW Charging Scheme and the PSB Charging Scheme. For instance, whether the use of “dual use bags” that serve the functions of both PSBs and designated bags could be promoted.



*Short-term or medium-term measure*

- C11) Retailers should be encouraged to offer designated bags at cashiers in lieu of PSBs to promote the use of “dual use bags” upon the implementation of MSW charging.
- 3.14. Quite some respondents have expressed concern towards the indiscriminate use of flat-top bags. In some retail outlets, flat-top bags are placed next to the fruit / vegetable section for customers’ free use without any supervision.
- 3.15. At the same time, it was noted that some local retailers / supermarkets had adopted the green practice of providing flat-top bags to customers only at check-out counters.

<sup>4</sup> Price of designated bags: \$0.11 per litre with nine different sizes and two designs (T-shirt and flat-top bag); for example 10L (\$1.1); 15L (\$1.7) and 20L (\$2.2)

*Short-term measure*

C12) There is a need for retail outlets to step up their monitoring of flat-top bag distribution. The present practice of some retailers of allowing customers to take flat-top bags freely may lead to potential abuse. Some good practices include:

- Do not place flat-top bags at the fresh fruit / vegetable stalls;
- Provide flat-top bags to customers only upon request; and
- Place a reminder next to the flat-top bags that they are not free unless exempted.



**D. Publicity and public education**

3.16 Publicity and public education are essential for promoting green lifestyle. We recommend that the Government could explore the following measures:

*Short-term measure*

D1) Green business practices are effective and efficient in reducing the generation of single-use plastics at source. The Government should prepare and promote green business practices in collaboration with sectors concerned.

D2) Green information-sharing is essential for reducing the society's reliance on single-use plastics and keeping the public informed of the characteristics, including the pros and cons, of available alternatives, such as those made of non-plastic materials, bio-degradable plastics, etc. for making well-informed choices. The Government should, in consultation with different stakeholders, including businesses, material suppliers and consumers, explore the development of an effective information-sharing platform on single-use plastics.

D3) The Government should step up public education to promote green concepts, for instance, the "Waste Hierarchy" where waste prevention should be the most preferred option and disposal the least; introduce readily available plastic alternatives and share waste statistics in relation to single-use plastics.



D4) Research and development (R&D) on plastic alternatives should be supported by relevant research fund such as Green Tech Fund and scholarships.

## E. Green merchandise

3.17. Consumers express their desire to purchase “greener products”, for instance, refillable / reusable products, products that are made of “green material” like recycled plastics, and products in simple packaging. During the public engagement, different ranges of “additional cost that consumers are willing to pay for greener products” were listed for respondents’ consideration, and the option of “additional 5 – 10% of product price” gained the most popularity. We recommend that the trades should take the above into account and assimilate green elements in their product designs / day-to-day operations / store policies (e.g. including more refill products, setting up a dedicated section for sustainable products, setting up refill stations, catering businesses to engage contractors to clean reusable cutleries instead of using disposable ones, considering providing discount / offer / reward on green or sustainable products, etc).



3.18. Consumers indicate that it is sometimes difficult to identify which single-use plastic merchandise is in fact “greener”, e.g. whether the product could be recycled, whether it contains recycled content, etc. A good practice for local manufacturers is to indicate relevant “green” information on their merchandise as far as possible, including the raw material of the product, how to recycle the product, etc.



3.19. A “carrot and stick” approach should be taken in the control of single-use plastics. On top of the possible regulatory measures mentioned above, it would be helpful to promote “plastic-free” by reward schemes. Some examples include providing discount to customers who bring their own containers / opt for no packaging / opt for in-store pick-up instead of delivery, trade awards for outstanding green brands / retail outlets, offering returnable shopping bags for a fee or deposit (i.e. customers can borrow a reusable bag and return it for a refund).

3.20. Retailers have a key role to play when it comes to promoting plastic alternatives and green lifestyle. Some ideas include:

- Encourage customers to bring their own freezer bag;
- Promote or sell reusable cotton / linen bags and turn it into a fashionable lifestyle, attracting the younger generation to change their habit;
- Re-use certain plastic packaging like boxes as far as possible;
- Replace single-use foam containers by reusable containers; and
- Provide suitable training to frontline staff for explaining green measures to customers.



- 3.21. Hong Kong Stock Exchange (HKEX) has published an Environmental, Social and Governance (ESG) Reporting Guide to facilitate all listed companies' preparation of their annual ESG report. Some companies have made plastic free pledge. SDC recommends that the HKEX should encourage the listed companies in Hong Kong to formulate a holistic waste management plan, which includes the management / reduction of single-use plastic in their operation as well as setting goals for achieving carbon neutrality. The aforementioned information-sharing platform will facilitate companies to adopt green corporate culture. Instilling changes at corporate level can bring about effective influence on their clients in shifting to greener lifestyle.