

**A Summary on the Development of Environmental Law and Policy  
(July 2009)**

\*\*\*\*\*

**1. AIR POLLUTION**

Air pollution seriously threatens the public health, economic and social well being of all residents of Hong Kong. Government projections indicate that air quality will substantially deteriorate in future years largely due to growth in traffic in Hong Kong and in the Pearl River region. The Government has therefore been endeavouring to reduce the threat of air pollution by tightening the relevant legislation.

A. Air Pollution Control (Specified Processes) Regulation amended

- ❖ The Government published on 5 June 2009 in the Gazette an amendment regulation to allow registered professional engineers in the environmental discipline to undertake licence application and associated preparation works for major stationary air pollution sources.
- ❖ The amendment aims to tap the expertise and experience of registered professional environmental engineers who would help bring effective solutions in dealing with emissions from existing and new stationary sources with high air pollution potential.
- ❖ Subject to agreement from the Legislative Council, the amendment will take effect from 1 October 2009.

B. Ozone Layer Protection Ordinance (Amendment of Schedule) Order 2009

- ❖ The government published in the Gazette on 29 May 2009 the Ozone Layer Protection Ordinance (Amendment of Schedule) Order 2009 to bring Hong Kong into compliance with the additional requirements under the Montreal Protocol on Substances that Deplete the Ozone Layer.

- ❖ The order is to include bromochloromethane (BCM) as a new scheduled substance for banning its import, production and use under the Ozone Layer Protection Ordinance (“OLPO”).
- ❖ In addition to the inclusion of BCM, the order also amends the Schedule to the OLPO to make it clear that a scheduled substance includes the isomers of that substance; and to change the Chinese terms of certain scheduled substances to conform to the version used by the United Nations.
- ❖ Subject to agreement from the Legislative Council, the amendment will take effect from 1 October 2009.

C. The Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation

- ❖ The Government on 22 May 2009 published in the Gazette an amended regulation to further control the emissions of volatile organic compounds (VOCs), a major category of pollutants responsible for smog that reduces Hong Kong's visibility.
- ❖ The new legislation - the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation - is to extend the existing control on VOC-containing products to vehicle refinishing paints, vessel paints, pleasure craft paints, adhesives and sealants. It will ban the import and local manufacture of the newly regulated products with VOC contents exceeding the prescribed limits.
- ❖ The SAR Government and the Guangdong Provincial Government have a consensus to reduce VOCs by 55% by 2010, on the basis of the emissions in 1997. It is expected that a further 700 tonnes of local VOC emission will be reduced when the extended control is fully implemented.
- ❖ The amended regulation will be implemented in phases starting from 1 January 2010.

D. Testing of New-Generation Electric Vehicle

- ❖ Hong Kong is the first place in Asia, after Japan, to sign a Memorandum of Understanding (MoU) to test a new type of electric car.

- ❖ The MoU was signed on 26 February 2009 by the Permanent Secretary for the Environment, Ms Anissa Wong, the Managing Director, Universal Cars Limited, Mr Peter Wei, and the Corporate General Manager of Mitsubishi Motors Corporation, Mr Tohru Hashimoto.
- ❖ The electric car, the Mitsubishi innovative electric vehicle (“i MiEV”) provided by Mitsubishi Motors, was evaluated in Hong Kong. Electric vehicles do not have tailpipe emissions and can help improve roadside air quality. The trial of the “i MiEV” will help the Government understand the performance of the new generation electric vehicles and the charging requirements for large scale introduction to Hong Kong,
- ❖ To promote electric vehicles, the Financial Secretary announced in his Budget Speech on 25 February 2009 that the Government would extend the waiver of the first registration tax on electric vehicles for five years to 31 March 2014.
- ❖ The Government will promote the setting up of vehicle battery charging facilities in Hong Kong, including studying the feasibility of setting up charging facilities in government multi-storey car parks. A steering committee chaired by the Financial Secretary will be set up to make recommendations on strategy and specific measures to promote the use of electric vehicles in Hong Kong.

## **2. WASTE POLLUTION**

The indiscriminate use of plastic shopping bags is recognized as a major and visible environmental problem in Hong Kong. To address the issue of indiscriminate use of plastic shopping bags and the serious problem of waste pollution, the government took an important step to introduce the environmental levy scheme on plastic shopping bags.

### **A. Environmental Levy Scheme on Plastic Shopping Bags**

- ❖ The Environmental levy scheme on plastic shopping bags took effect from 7 July 2009.
- ❖ The environmental levy scheme aims at creating a direct economic incentive to encourage members of the public to switch to reusable shopping bags.

- ❖ Details of the levy scheme are set out in the Product Eco-responsibility (Plastic Shopping Bags) Regulation (Cap. 603A) of the Product Eco-responsibility Ordinance (Cap. 603).
- ❖ Under the scheme, chain or large supermarkets, convenience stores, personal health and beauty product stores are required to charge 50 cents for each plastic shopping bag provided to customers.

### 3. CONSERVATION

It is widely recognized that environment conservation is fundamental for achieving a sustainable society for the benefit and enjoyment of the present and future generations of the community. The Government is formulating new nature conservation policy in order to regulate, protect and manage natural resources that are important for the conservation of biological diversity of Hong Kong in a sustainable manner.

#### A. The Genetically Modified Organisms (Control of Release) Bill

- ❖ The Genetically Modified Organisms (Control of Release) Bill was published in the Gazette on 22 May 2009.
- ❖ The main objective of the bill is to protect biological diversity through the control of the release into the environment, and the import and export, of genetically modified organisms (GMOs).
- ❖ GMOs are living organisms that possess new combination of genetic material obtained through the use of modern biotechnology, for example, transgenic fluorescent aquarium fish, herbicide-tolerant canola, virus-resistant papaya and delayed ripening tomato.
- ❖ Under the bill, prior approval must be sought from the Director of Agriculture, Fisheries and Conservation before a GMO may be released into the environment or imported into Hong Kong for release into the environment. Such application should be accompanied by a risk assessment report on the possible adverse effects of the GMO on the environment. Only those GMOs which will not cause unacceptable or unmanageable impact on the local biological diversity will be approved for release into the environment in Hong Kong

- ❖ Enactment of the Bill would enable the Hong Kong Government to implement the Cartagena Protocol on Biosafety in Hong Kong for better protection of biological diversity.
- ❖ The protocol was adopted under the Convention on Biological Diversity in 2000 to provide for the safe transfer, handling and use of GMOs that may have adverse effects on the conservation and sustainable use of biological diversity.
- ❖ Subject to approval of the Legislative Council, the Government aims at enacting the new Bill in 2010. Following the enactment, there will be a six-month transitional period to allow stakeholders and the public to adapt to the new legislation.

#### B. Building Energy Efficiency Funding Schemes

- ❖ The HK\$450 million Building Energy Efficiency Funding Schemes were formally launched on April 2009 with funding from the Environment and Conservation Fund (ECF).
- ❖ The funding schemes provide subsidies to incentivise building owners to conduct energy-cum-carbon audits and energy efficiency projects for their buildings.
- ❖ Energy-cum-carbon audits can help building owners to systematically review the use of energy and quantify the greenhouse gas (GHG) emissions associated with their buildings, as well as to identify opportunities for the enhancement of energy efficiency and conservation and reductions in GHG emissions arising from building operations.
- ❖ Financial incentives will also be provided to encourage building owners to carry out alteration, addition or improvement works to upgrade the energy efficiency performance of their building services installations.

#### **4. CONCLUSION**

Although there are ways to clean up pollution in the environment, the government well recognizes that preventing pollution in the first place is fundamental to creating and maintaining a healthy environment.

范紀羅江律師行

---

**FAIRBAIRN CATLEY LOW & KONG**

---

For example, introducing the plastic bag levy scheme, providing tax incentive for using electric vehicles and providing subsidies for improving the energy efficiency of buildings are important steps taken by the government recently with a view to change the behaviour of the general public in order to reduce pollution and protect the environment.

Prepared in July 2009

For further enquiries, please contact Johnny Fee <[jfee@fclklaw.com.hk](mailto:jfee@fclklaw.com.hk)>, Lily Chang <[lchang@fclklaw.com.hk](mailto:lchang@fclklaw.com.hk)> or Nichole Hou <[nhou@fclklaw.com.hk](mailto:nhou@fclklaw.com.hk)>.