

**Business Facilitation Advisory Committee
Food Business and Related Services Task Force**

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

Purpose

This paper aims to brief Members on the regulatory framework and legislative requirements of the Product Eco-responsibility (Amendment) Ordinance 2023 (Amendment Ordinance) and the preparatory work for implementation of the regulation.

Background

2. Plastic is difficult to decompose and can persist in the environment for a very long time. It can further fragment into microplastics, causing far-reaching harm to the environment, ecology and human health. Therefore, “plastic reduction” and “plastic-free” have become an international consensus. In recent years, both the Mainland and other places in the world have stepped up measures to reduce the use of plastic materials and explore alternatives. In Hong Kong, various sectors and citizens have also started to form a consensus that we need to move towards “plastic reduction” and “plastic-free”.

3. The regulation of disposable plastic tableware and other plastic products is an important component of the Government’s “plastic-free” strategy. The objective is to reduce the use of disposable plastic tableware and other plastic products at the source through legislation, thereby minimising the impact of plastic pollution on marine ecology and human health and mitigating climate change. The Product Eco-responsibility (Amendment) Bill 2023 (Amendment Bill) for regulating disposable plastic tableware and other plastic products was passed by the Legislative Council (LegCo) on 18 October 2023. To allow the trades to get prepared, we will commence the first-phase regulation from 22 April 2024 (Earth Day). We are now actively undertaking relevant preparations to ensure that

the Government, various stakeholders and the general public get ready for the implementation of the regulation.

Regulatory Framework

Regulation of Disposable Plastic Tableware

4. The Amendment Ordinance prohibits the local sale of nine types of disposable plastic tableware, and prohibits catering premises from providing customers with such products, with implementation carried out in two phases. In the first-phase regulation, the sale of expanded polystyrene (EPS) tableware and four other types of disposable plastic tableware that are small in size and difficult to recycle or to which there are mature alternatives will be prohibited, and so will the provision of such tableware to takeaway customers. Moreover, the provision of all nine types of disposable plastic tableware to dine-in customers at catering premises will be prohibited. The regulation will be fully implemented in the second phase. Details are summarised as follows:

Types of Disposable Plastic Tableware	Phase 1	Phase 2
EPS tableware, straws, stirrers, cutlery (forks, knives, spoons), plates	Prohibits the sale to end-customers	
	Prohibits the provision at catering premises to customers for dine-in and takeaway services	
Cups	Prohibits the provision at catering premises to customers for dine-in services	Prohibits the sale to end-customers
Cup lids		Prohibits the provision at catering premises to customers for dine-in and takeaway services
Food containers		
Food container covers		

5. 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. Under the Amendment Ordinance, the following circumstances are 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.

Other Plastic Products

7. The Amendment Ordinance also regulates the manufacturing, selling and distributing of a series of disposable plastic products, which will also be implemented in two phases. In the first phase, the sale and provision of those products that either have established non-plastic alternatives or are not necessities will be banned. Hotels and guesthouses will be banned from providing disposable toiletries and in-room plastic-bottled water for free. Moreover, the manufacturing, selling and free distribution of oxo-degradable plastics products will be banned. The phased regulation on various types of plastic products is summarised below:

Control Measures	Disposable Plastic Products	
	Phase 1	Phase 2
Ban sale and free distribution	<ul style="list-style-type: none"> • cotton buds • balloon sticks • inflatable cheer sticks • glow sticks • party hats • oxo-degradable plastic products (regardless of disposability) • umbrella bags • food sticks • plastic toothpicks 	<ul style="list-style-type: none"> • multipack rings • tablecloths • plastic stemmed dental floss
Ban free distribution	<ul style="list-style-type: none"> • hotel and guesthouse toiletries (including plastic-handled) 	<ul style="list-style-type: none"> • ear plugs

Control Measures	Disposable Plastic Products	
	Phase 1	Phase 2
	toothbrushes, plastic-packed toothpaste, shower caps, razors, nail files, combs, as well as shampoo, body wash, conditioners, body lotions and hand sanitisers packed in disposable plastic containers) and plastic-bottled water provided in hotel rooms <ul style="list-style-type: none"> • plastic-packaged tissue paper for promotional use • non-medical use transparent gloves 	
Ban manufacturing	<ul style="list-style-type: none"> • oxo-degradable plastic products (regardless of disposability) 	

8. The Amendment Ordinance also sets out the exemptions for sale and/or free distribution of regulated disposable plastic products for certain purposes, including:

- (a) forensic analysis;
- (b) medical treatment or procedure;
- (c) scientific research or experiment; or
- (d) taking medicine.

Implementation Timetable

9. The first-phase regulation will commence from 22 April 2024, in support of Earth Day. The timing of implementing the second-phase regulation will depend on the availability and affordability of the relevant non-plastic or reusable alternatives, and it is tentatively set for 2025.

Penalties

10. Any person who contravenes the measures to control disposable plastic tableware and other plastic products commits an offence, and is liable to a maximum fine at level 6¹. A fixed penalty notice could also 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 to discharge the person's liability for the offence.

11. On the other hand, considering that the manufacture, supply and display of oxo-degradable plastic products will have a greater and more far-reaching negative impact on the environment, if a person violates the relevant requirements, the new fixed penalty regime is not an option to the person, so as to reflect the severity of the offences at policy level, raise enforcement efficiency and maintain deterrent effect. For other offences in question which are covered by the fixed penalty regime, if the offences are considered serious (i.e. recklessly or repeatedly committing an offence concerned), we may consider dealing with them by summonses and court proceedings instead of applying the proposed new fixed penalty regime.

Preparatory Works

12. Co-operation of members of the public and the trades is the key to success in implementing the "plastic-free" measures. To implement the regulation, the Government will adopt a multi-pronged strategy, including (1) setting up preparatory period; (2) enhancing public education, publicity and stakeholder engagement; and (3) adopting a risk-based enforcement approach as the backing of the enforcement.

Setting Up Preparatory Period

13. When the Amendment Bill was introduced to the LegCo in March this year, we had engaged various sectors and businesses and reminded them of the need to prepare. Also, the first-phase regulation will commence six months after the passage of the Amendment Bill by the LegCo allowing sufficient time for the trades to get prepared. In view that the Amendment Bill was passed by the LegCo on 18 October 2023, as

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

mentioned above, we will commence the first-phase regulation from 22 April 2024 (Earth Day).

Enhancing Public Education, Publicity and Stakeholder Engagement

14. In order to encourage the early adoption by the trades of more environmental-friendly tableware that is made of non-plastic materials (such as paper or plant fibre) in lieu of disposable plastic ones, and facilitate them in understanding which alternatives meet the requirements of the regulation, and to avoid confusion about what constitutes “disposable”, we have engaged the Hong Kong Quality Assurance Agency to launch an online Green Tableware Platform (greentableware.hk) for reference by the food and beverage trade, tableware suppliers and the public. The platform has been accepting applications from tableware suppliers since November 2022. Currently, more than 400 non-plastic disposable tableware products from more than 30 tableware suppliers are listed on the platform. In addition, we will establish an information platform on disposable plastics to introduce the provisions of the new legislation and share with members of the public the information of different alternatives to plastics or green measures, thereby enabling them to adopt a “plastic-free” lifestyle.

15. During the preparatory period before the implementation of first-phase regulation, we will maintain close communication with the trades (including food and beverage, retail, hotel and school lunchbox suppliers) through various liaison platforms, providing them with relevant information to ensure their understanding of the legal requirements, and enabling them to adjust and enhance their workflow to prepare for the regulation of disposable plastics. To assist the trade for a smooth transition, we will not only prepare promotional materials and practical guidelines for the reference by the trade, but also arrange multi-briefing sessions on the regulation and deploy personnel to visit small and medium-sized eateries in the industry particularly.

16. We will continue to organise different publicity campaigns to allow the community to further understand the content of the new legislation of disposable plastics, so as to promote their awareness on “go plastic-and-disposable-free”. We launched a “Bring Your Own Containers (BYOC) Eateries” Scheme in September this year to encourage the public to bring their own meal containers when ordering takeaways. In November

this year, we also collaborated with the food and beverage industry to organise the third “Plastic-Free Takeaway, Use Reusable Tableware” large-scale promotional and public education campaign, encouraging more citizens and restaurants to actively participate in the “plastic-free” movement.

Adopting a Risk-based Enforcement Approach as the Backing of the Enforcement

17. In terms of enforcement, we will adopt a risk-based enforcement approach as enforcement backing. After the implementation of the first-phase regulation, the staff of the Environmental Protection Department (EPD) will inspect and verify whether the products supplied at relevant retail points, catering, and hotel establishments comply with the statutory requirements. In the first two months after implementation of the legislation, apart from the serious cases, our emphasis will be on persuasion and warnings. After two months, we will adopt a risk-based enforcement approach and take enforcement actions against “black spots” of non-compliance. EPD will identify “black spots” based on complaints and reports of violations and formulate the most effective enforcement actions. In addition, a dedicated hotline will be set up by EPD to answer enquiries and to receive complaints and reports.

Advice Sought

18. Members are invited to note the content of this paper.

**Environmental Protection Department
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