

By post and by fax at 2978 7569

26 November 2013

Clerk to Bills Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central Hong Kong

[Attn: Ms Macy NG]

Dear Ms NG

**LegCo Bills Committee on Air Pollution Control (Amendment) (No.2) Bill 2013 –
Meeting on 2 December 2013
Views on Air Pollution Control (Amendment) (No.2) Bill 2013**

Thank you for inviting the Institution to put forth our views on the captioned subject.

In response to your invitation, we are pleased to provide herewith our views and suggestions on the subject for your consideration.

Thank you for your attention.

Yours sincerely



Ir Raymond CHAN Kin Sek
President
The Hong Kong Institution of Engineers

Enc

RC/WC

Enclosure

Legislative Council
Bills Committee on Air Pollution Control (Amendment) (No.2) Bill 2013

Views from the Hong Kong Institution of Engineers
on Air Pollution Control (Amendment) (No.2) Bill 2013

The Hong Kong Institution of Engineers (HKIE) does not object to the proposed amendment to the Bill to ban the use, supply, import and transshipment of asbestos containing material (ACM) when proven substitutes are available. However, we are of the view that those proprietary and assembled components within the large equipment may not be taken as hazards to the public. Therefore, we suggest a flexible exemption mechanism to cater for some very special situations.

2. It is noted that in the Environmental Protection Department's proposal for banning all forms of asbestos in April 2011, the term "*supply*" means supply by way of lease, hire, hire-purchase, loan, gift or exchange for a consideration other than money, other than solely for the purpose of disposal. However, in the Amendment Bill "*solely for the purpose of disposal*" has been taken out in the definition of the term "*supply*". Under the Bill, the channel of selling retired equipment containing asbestos for disposal with proper asbestos abatement works carried out at the purchaser's site is totally blocked. Noting that "*disposal*" in relation to chemical waste includes treatment, reprocessing or recycling under the Waste Disposal Ordinance, we are of the view that selling of retired equipment containing asbestos solely for disposal should be allowed as stated in the original proposal.

3. With reference to the captioned Bill, and the relevant Air Pollution Control Ordinance (Cap. 311) [the Ordinance] and the Factories and Industrial Undertakings (Asbestos) Regulation (Cap. 59 sub. leg. AD) [the Regulation], it could be interpreted that ACM shall only mean those materials, substances or products that contain or are made from asbestos. However, it seems unnecessary to expand boundlessly to define the whole set of machine, equipment or building which may contain only tiny piece(s) of asbestos-containing parts as ACM, and then ban the sale or even use of these machines or facilities. For example, large equipment that weighs several or tens of tonnes may contain a few asbestos-containing gaskets that collectively weigh less than 1 kg and needs not be regarded as ACM, as only those gaskets contained are ACM. Use or even sale of such equipment (e.g. the transformer) is suggested not to be governed by these regulations.

4. In the Bill, it is noted that Section 82 (5), which is intended to amend the Ordinance, states that "*Section 80 does not prohibit a person from using asbestos or asbestos containing material in work carried out in an industrial undertaking.*" However, Part 3 of the Bill that intends to amend the Regulation has a condition under Clause 11 (21) (D) to ban on working with chrysotile – "*Ban on working with chrysotile - The proprietor of an industrial undertaking must not carry out work with chrysotile in the industrial undertaking.*" It is suggested that more clarification is required on these two parts in the Bill that seem contradictory.

5. Import and transshipment of ACM are prohibited in the Bill. However, it is unclear whether shipping large equipment to places outside Hong Kong back and forth for repair purpose is prohibited by the Bill, assuming that the ACM within which remains at the inaccessible locations throughout the whole process. We therefore suggest further clarification on such.