

LEGISLATIVE COUNCIL BRIEF

Public Health and Municipal Services Ordinance (Cap. 132)

**HARMFUL SUBSTANCES IN FOOD
(AMENDMENT) REGULATION 2005**

INTRODUCTION

On 22 August 2005, the Director of Food and Environmental Hygiene, in exercise of the power under sections 55(1) and 57 of the Public Health and Municipal Services Ordinance (Cap. 132), made the Harmful Substances in Food (Amendment) Regulation 2005 (herein after referred to as “the Amendment Regulation”) at Annex.

JUSTIFICATIONS

General Background

2. The Harmful Substances in Food Regulations (Cap. 132, Sub. Leg. AF) (hereafter referred to as “the Regulations”) govern the import and sale of food containing harmful substances. The First Schedule of the Regulations stipulates the maximum amount of harmful substances allowed in food. Any person who imports, consigns, delivers, manufactures or sells for human consumption any food containing greater concentration of the substances stipulated in the Regulations commits an offence.

3. On 16 August 2005, the Guangdong Entry-Exit Inspection and Quarantine Bureau in the Mainland decided to recall eel products destined for exports as a precautionary measure to ensure that all eel products for exports do not contain the chemical, malachite green. The Administration immediately took action and collected 80 samples of eels and eel products and 62 samples of freshwater fish for testing, and malachite green was found to be present in 67 samples of eels and eel products and 13 samples of freshwater fish.

4. Malachite green is a type of industrial dye and has been used for treating infection in fish. Major agricultural economies such as the Mainland, European Union, Canada and the United States prohibit the use of the chemical

in food fish. Some animal studies show that malachite green may cause liver tumour in rats but there has yet no such conclusive evidence in human. Existing legislation do not explicitly prohibit the presence of malachite green in food imported, consigned, delivered, manufactured or sold in Hong Kong but any food with the presence of malachite green is deemed to be in breach of the Public Health and Municipal Services Ordinance (Cap. 132).

Proposed Amendments

5. To ensure food safety and protect public health, we propose to amend the Regulations to prohibit the presence of malachite green in all food sold in Hong Kong by adding a new item for malachite green in the First Schedule. The amendment will also have the effect to control live fish as food with regard to the use of malachite green.

THE AMENDMENT REGULATION

6. The Amendment Regulation will come into operation on the date of gazettal, i.e., 26 August 2005.

LEGISLATIVE TIMETABLE

7. The legislative timetable is as follows:-

Publication in the Gazette	26 August 2005
Tabling at LegCo	12 October 2005

IMPLICATIONS OF THE PROPOSAL

8. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the principal Ordinance. It has no financial, civil service, economic, productivity and environmental implications.

PUBLIC CONSULTATION

9. The Legislative Council Panel on Food Safety and Environmental Hygiene expressed support for the amendment at the special meeting held on 18 August 2005. The trade has also been informed of the proposed amendment.

PUBLICITY

10. A press release will be issued. A spokesman will be made available to answer media enquiries.

ENQUIRIES

11. Any enquiry on this brief can be addressed to Ms Vivian KO, Principal Assistant Secretary for Health, Welfare and Food (Tel: 2973 8232).

Health, Welfare and Food Bureau
August 2005

L.N. 137 of 2005**HARMFUL SUBSTANCES IN FOOD (AMENDMENT)
REGULATION 2005**

(Made by the Director of Food and Environmental Hygiene
under sections 55(1) and 57 of the Public Health and
Municipal Services Ordinance (Cap. 132))

**1. Maximum concentration of certain substances
present in specified foods**

The First Schedule to the Harmful Substances in Food Regulations
(Cap. 132 sub. leg. AF) is amended by adding—

“26A. Malachite green	Sum of malachite green and leucomalachite green	Any food (including live fish, live reptiles and live poultry)	0 microgram per kilogram of the food.”.
-----------------------	-------------------------------------------------------------	-------------------------------------------------------------------------------	-----------------------------------------------------

Dr. MAK Sin-ping
Acting Director of Food and
Environmental Hygiene

22 August 2005

Explanatory Note

This Regulation amends the First Schedule to the Harmful Substances in Food Regulations (Cap. 132 sub. leg. AF). The effect is to regulate the presence of malachite green in food (including live fish, live reptiles and live poultry).