

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1))

FOOD AND DRUGS (COMPOSITION AND LABELLING)
(AMENDMENT: REQUIREMENTS FOR NUTRITION
LABELLING AND NUTRITION CLAIM)
REGULATION 2008

RESOLVED that the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008, published in the Gazette as Legal Notice No. 69 of 2008 and laid on the table of the Legislative Council on 9 April 2008, be amended -

(a) in section 2(3), in the new definition of "nutrition claim", by adding ", subject to paragraph (3)" after "(營養聲稱)";

(b) in section 2, by adding -

"(4) Regulation 2 is amended by adding -

"(3) For the purposes of these regulations, the following do not constitute a nutrition claim -

(a) mention of any nutrient content in a list of

- ingredients required by section 2 of Schedule 3;
- (b) any quantitative or qualitative declaration of any nutrient content specified in section 2(4E)(a) of Schedule 3;
 - (c) other quantitative or qualitative declaration of energy value or any nutrient content required by law;
 - (d) any quantitative or qualitative declaration of change in nutritional value due to genetically modified process;
 - (e) any claim forming part of the name, brand name or trade mark of a prepackaged food; and
 - (f) any quantitative declaration of energy value or any nutrient content contained in a prepackaged food which -
 - (i) is expressed -

- (A) as an actual amount; or
 - (B) in any manner specified in section 2 or 3 of Schedule 5; and
 - (ii) does not place any special emphasis on the high content, low content, presence or absence of energy or that nutrient contained in the food."."
- (c) in section 4, in the new regulation 4B(2), in the Chinese text, by adding "的規定所" before "規限";
- (d) in section 4, by repealing the new regulation 4B(4) and substituting -
- "(4) If any item in respect of which an exemption has been granted under Part 2 of Schedule 6 is displayed for sale in contravention of section 2A of that Part, paragraph (1) shall apply in relation to such item.";
- (e) in section 4, in the new regulation 4B(5), by repealing "paragraph (6)" and substituting "paragraphs (5A) and (6)";

- (f) in section 4, in the new regulation 4B, by adding -
 - “(5A) Any item in respect of which an exemption has been granted under Part 2 of Schedule 6, except an item displayed for sale in contravention of section 2A of that Part, shall be exempt from the requirement of paragraph (5).”;
- (g) in section 5, by adding -
 - “(7A) Regulation 5(3) is amended, in the Chinese text, by repealing “依照上述方式” and substituting “符合上述規定”.”;
- (h) in section 8(1), by adding “2,” before “4A &”;
- (i) in section 10, in the new section 4(3) of Schedule 5, by repealing “Schedule” and substituting “Part”;
- (j) in section 10, by repealing the new section 5 of Schedule 5;
- (k) in section 10, in the heading of the new Schedule 6, by repealing “PART 1 OF”;
- (l) in section 10, by repealing the new section 6(a) of Part 1 of Schedule 6 and substituting -
 - “(a) packed in a container which contains -
 - (i) no other ingredient; or
 - (ii) ingredients packed in a separate container which has a total surface area of less than 100 cm²; and”;
- (m) in section 10, by repealing the new section 10(b) of Part 1 of Schedule 6 and substituting -
 - “(b) packed in a container which contains -

- (i) no other ingredient; or
 - (ii) ingredients packed in a separate container which has a total surface area of less than 100 cm²; and";
- (n) in section 10, in the heading of the new Part 2 of Schedule 6, by repealing "PART 1 OF SCHEDULE 5 UNDER REGULATION 4B(2)(b)" and substituting "SCHEDULE 5 UNDER REGULATION 4B(2)(b) and (5A)";
- (o) in section 10, in the heading of the new section 1 of Part 2 of Schedule 6, by repealing "**Part 1 of**";
- (p) in section 10, in the new section 1(1) of Part 2 of Schedule 6, by repealing "Part 1 of";
- (q) in section 10, in the new section 1 of Part 2 of Schedule 6, by adding -
 - "(1A) In determining whether certain prepackaged foods are of the same version for the purposes of subsection (1), regard shall be had to all relevant matters including -
 - (a) the ingredients of the foods;
 - (b) the volumes, weights and packing sizes of the foods;
 - (c) the flavours of the foods;
 - (d) the manufacturers and packers of the foods; and
 - (e) the containers of the foods."
- (r) in section 10, by repealing the new section 1(4) of Part 2 of Schedule 6 and substituting -

"(4) When an exemption is granted under subsection (1), the Authority may impose such conditions as the Authority thinks fit.";

(s) in section 10, in the new section 2 of Part 2 of Schedule 6, by adding -

"(3A) The Authority may, in respect of a renewed exemption, impose any condition in addition to or instead of any condition previously imposed under section 1(4).";

(t) in section 10, in the new Part 2 of Schedule 6, by adding -

"2A. Displaying for sale

No prepackaged food in respect of which an exemption has been granted under section 1(1) shall be displayed for sale unless -

(a) the food bears a label which is securely affixed to or forms part of its container and contains -

(i) (in the case where there is a nutrition claim made on the label of, or in any advertisement for, the food) the following text in both the English and Chinese languages in a conspicuous and easily legible manner -

"HKSARG WARNING

Nutrition labelling exempted
Nutrition label and claims for
this product may not comply
with Hong Kong laws

香港特區政府忠告

此乃豁免營養標籤產品

此產品的營養標籤及聲稱未必符合香港法
律”； or

- (ii) (in the case where there is no nutrition claim made on the label of, and in any advertisement for, the food) the following text in both the English and Chinese languages in a conspicuous and easily legible manner -

“Nutrition labelling exempted

此乃豁免營養標籤產品”；

- (b) the label referred to in paragraph

(a) (including the text on the label) is -

- (i) of a design, form and size (including font size of the text) as specified by the Authority in the conditions

imposed under section 1(4) or
2(3A); and

(ii) used in compliance with those
conditions; and

(c) the exemption number assigned by the
Authority is clearly -

(i) marked on the label referred to
in paragraph (a); or

(ii) displayed in close proximity to
the place where the food is
displayed for sale.";

(u) in section 10, in the new section 3(1)(a) of Part 2
of Schedule 6, by adding "or 2(3A)" after "section
1(4)";

(v) in section 10, in the new section 3(2) of Part 2 of
Schedule 6, by adding "or 2(3A)" after "section
1(4)";

(w) in section 10, in the new section 3(3)(a) of Part 2
of Schedule 6, by adding "or 2(3A)" after "section
1(4)".