

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), by repealing the new definition of
"nutrition claim", and substituting -

"nutrition claim" (營養聲稱), subject to paragraph

(3) -

- (a) means any representation which states, suggests or implies that a food has particular nutritional properties including -
 - (i) the energy value;
 - (ii) the content of protein, available carbohydrates, total fat, saturated fatty acids, trans fatty acids, sodium and sugars; or
 - (iii) the content of vitamins and minerals; and
- (b) includes nutrient content claim, nutrient comparative claim and nutrient function claim;" ;

(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)(a)
and substituting -

"(a) 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; or";

(e) 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".";

- (f) in section 8(1), by adding "2," before "4A &"
- (g) in section 10, in the new section 4(3) of Schedule 5, by repealing "Schedule" and substituting "Part";
- (h) in section 10, by repealing the new section 5 of Schedule 5;
- (i) 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";
- (j) 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";
- (k) 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.”;

(l) 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.”;

(m) 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).”;

(n) 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 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 marked

on the label referred to in

paragraph (a).";

(o) 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)";

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

(q) 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)".