

立法會
Legislative Council

LC Paper No. CB(2)2784/07-08
(These minutes have been seen
by the Administration)

Ref : CB2/SS/3/07

Subcommittee on Food and Drugs
(Composition and Labelling) (Amendment: Requirements for Nutrition
Labelling and Nutrition Claim) Regulation 2008

Minutes of meeting
held on Thursday, 8 May 2008, at 4:30 pm
in Conference Room B of the Legislative Council Building

- Members present** : Hon Bernard CHAN, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon WONG Yung-kan, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki
Hon WONG Ting-kwong, BBS
- Members absent** : Hon James TIEN Pei-chun, GBS, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon SIN Chung-kai, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Vincent FANG Kang, JP

- Public Officers attending** : Food and Health Bureau
- Ms Olivia NIP
Deputy Secretary for Food and Health (Food)
- Mrs Angelina CHEUNG
Principal Assistant Secretary for Food and Health (Food)1
- Food and Environmental Hygiene Department
- Dr Constance CHAN Hon-ye
Controller, Centre for Food Safety
- Dr Philip HO Yuk-yin
Consultant (Community Medicine) (Risk Assessment and Communication)
- Department of Justice
- Ms Leonora IP
Senior Government Counsel
- Miss Emma WONG
Government Counsel
- Clerk in attendance** : Miss Flora TAI
Chief Council Secretary (2)2
- Staff in attendance** : Ms Connie FUNG
Assistant Legal Adviser 3
- Ms Alice LEUNG
Senior Council Secretary (2)1
- Ms Anna CHEUNG
Legislative Assistant (2)2

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- I. Meeting with the Administration**
[LC Paper Nos. CB(2)1866/07-08(01)-(03) and
CB(2)1879/07-08(01)-(02)]
[L.N. 69 of 2008]
[File Ref : FH CR 1/1886/05]

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The Subcommittee deliberated (index of proceedings attached at **Annex**).

Admin

2. In the light of the comments made by the legal adviser to the Subcommittee that the scope of the Authority's power to impose conditions on renewal of the exemption under section 2 of Part 2 of the new Schedule 6 to the Food and Drugs (Composition and Labelling) Regulations (the Principal Regulations) should be made more specific, the Administration agreed to amend section 1 of Part 2 of the new Schedule 6 to the Principal Regulations.

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3. In response to Mr Tommy CHEUNG's concern about the drafting of the phrase "renewal of the exemption in such manner as the Authority may determine" under section 2(2) of Part 2 of the new Schedule 6 to the Principal Regulations, the Administration explained that it referred to a prescribed form to be completed by the applicant. At the request of Mr CHEUNG, the Administration agreed to provide to the Subcommittee a performance pledge in respect of processing time for renewal of exemption applications.

(Post-meeting note: the Administration's paper entitled "Application procedures in respect of prepackaged food with small sales volume" was issued to members vide LC Paper No. CB(2)1902/07-08(02) on 9 May 2008.)

4. In response to Mr Tommy CHEUNG's query about the registration fees for new applications for exemption and for renewal of exemption under the small volume exemption scheme, the Administration explained that full-cost recovery fees of \$345 (i.e. new application) and \$335 (i.e. renewal of exemption) were calculated in strict accordance with the established formula approved by the Financial Services and the Treasury Bureau for calculating Government fees and charges. The staff cost incurred in processing applications was factored into the calculation of the full cost for the grant or renewal of exemption.

5. In response to the concern and suggestion raised by Ms Miriam LAU and Ms Audrey EU regarding the adequacy of appeal channels, the Administration explained that, as provided in section 3(4) of Part 2 of the new Schedule 6 to the Principal Regulations, the Authority should not revoke an exemption unless the Authority notified the grantee in writing of his intention to revoke the exemption and the grounds upon which the Authority proposed to revoke the exemption. Before revoking the exemption, the Authority was also required to permit the grantee to make representations to the Authority in writing within the period specified in the notice and to consider the representations, if any, made by the grantee. As provided in section 3(5) of Part 2 of the new Schedule 6 to the Principal Regulations, if the Authority revoked an exemption, the Authority should, as soon as practicable, notify the grantee in writing and specify in the notice the grounds for the revocation and

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the date on which the revocation was to take effect. The Administration further explained that, in practice, the primary reason for refusing to grant an exemption under section 3(1) of Part 2 of the new Schedule 6 to the Principal Regulations would be that the annual sales volume of the product had exceeded 30 000 units in any one of the past two years. The Administration also pointed out that the decision of refusing to grant an application, revoking an exemption or refusing an application for renewal, was subject to judicial review. In the light of this, the Administration considered it unnecessary to specify in the Amendment Regulation that appeal against the decision of the Authority could be made to the Administrative Appeals Board.

6. In response to Mr Tommy CHEUNG's concern over the legal responsibility of food retailers selling the food products that were exempted under the small volume exemption scheme, the Administration explained that section 1(4) of Part 2 of the new Schedule 6 to the Principal Regulations provided that the Authority might impose such conditions as the Authority deemed fit. One of the conditions to be imposed on the importer or manufacturer to whom the exemption had been granted was that the importer or manufacturer concerned should inform the distributors and retailers that the exempted food products should be separately identified indicating the exemption status of the products when they were put on sale. They should also notify the Authority of any changes to their particulars, or to the names and addresses of the distributors/retailers during the validity period of the exemption.

II. Any other business

Date of next meeting

7. Members noted that the next meeting of the Subcommittee would be held on 13 May 2008 at 10:45 am.

8. There being no other business, the meeting ended at 6:35 pm.

Council Business Division 2
Legislative Council Secretariat
17 September 2008

**Proceedings of the meeting of the
Subcommittee on Food and Drugs (Composition and Labelling)
(Amendment: Requirements for Nutrition Labelling and Nutrition Claim)
Regulation 2008
on Thursday, 8 May 2008, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 002418	Chairman Mr Tommy CHEUNG Admin ALA3	<p><u>Continuation of section-by-section examination</u></p> <p><u>Part 2 of Schedule 6</u></p> <p><u>Section 2</u></p> <p>Undertaking of the Administration to amend section 1 of Part 2 of the new Schedule 6 to the Principal Regulations.</p> <p>The Administration's agreement to provide to the Subcommittee a performance pledge in respect of processing time for the renewal of exemption applications.</p> <p>The Administration's explanation on the calculation of the registration fees for new applications for exemption and for renewal of exemption under the small volume exemption scheme.</p>	<p>Admin's undertaking to amend section 1 of Part 2 of the new Schedule 6 to the Principal Regulations (para. 2 of the minutes)</p> <p>Admin to provide a performance pledge in respect of processing time for the renewal of exemption applications (para. 3 of the minutes)</p>
002419 - 004647	Admin Ms Emily LAU Ms Audrey EU Ms Miriam LAU Mr WONG Yung-kan ALA3 Chairman	<p><u>Section 3</u></p> <p>The Administration's response to the concern and suggestion raised by Ms Miriam LAU and Ms Audrey EU about the appeal channel for the food importers/manufacturers.</p>	
004648 - 005226	Mr Tommy CHEUNG Admin	Mr Tommy CHEUNG's concern over the legal responsibility of food retailers selling food products that were exempted under the small volume exemption scheme.	

Time marker	Speaker	Subject	Action required
005227 - 011541	Chairman Admin Ms Emily LAU Mrs Sophie LEUNG Mr Tommy CHEUNG Mr Fred LI	The Administration's presentation of its paper on the chronology of events relating to the introduction of the nutrition labelling scheme [LC Paper No. CB(2)1866/07-08(01)]. Discussion on the suggestions of the food trade on the small volume exemption scheme put forward to the Administration during the period between November 2007 and February 2008.	
011542 - 013939	Chairman Admin Ms Miriam LAU Mr Tommy CHEUNG Mr Fred LI Ms Audrey EU	The Administration's presentation of its paper on the conditions for nutrition content claims under the nutrition labelling scheme. [LC Paper No. CB(2)1866/07-08(02)]	
013940 - 015601	Chairman Admin Ms Emily LAU Mr Tommy CHEUNG	Discussion on the Administration's paper on impact on food choices after the implementation of nutrition labelling scheme. [LC Paper No. CB(2)1866/07-08(03)]	
015602 - 020337	Chairman Admin Mr Tommy CHEUNG ALA3	Discussion on the Administration's proposed amendments and resolutions. [LC Paper Nos. CB(2)1879/07-08(01) and (02)]	
020338 - 020400	Chairman	Next meeting to be held on 13 May 2008 at 10:45 am.	

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