

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

Further Proposed Amendments

1. This paper sets out the further proposed amendments to the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 (Amendment Regulation).

Section 2 of Amendment Regulation

2. Having discussed with the Assistant Legal Advisor, we will move section 5 of Part 2 of Schedule 5, which sets out those items that do not constitute a nutrition claim, to section 2 of the Amendment Regulation.

New section 4B of the Regulation

3. As discussed at the Subcommittee meeting, the Administration will set out clearly the requirements for separately identifying the food products that are exempted under the small volume exemption scheme. The food shall be displayed with a label indicating that the small volume exemption has been so granted and the exemption number assigned by the Authority should also be clearly marked on the relevant label or displayed in close proximity to the place where the food is displayed for sale. Amendments will be made to the new section 4B of the Regulation and Part 2 of Schedule 6 of the Amendment Regulation.

Part 1 of Schedule 6

4. Having considered Members' views, we propose that fruits, vegetables, meat and fish (i.e. sections 6 and 10 of Part 1 of Schedule 6) should be exempted from the nutrition labelling requirements even if there are ingredients which are packed in a separate container having a total surface area of less than 100cm².

Draft Resolution

5. The draft Resolution which sets out the proposed amendments is attached.

Food and Health Bureau
May 2008

DM #152438 v3/Emma Wong
1st draft: 6.5.2008
2nd draft: 7.5.2008
3rd draft: 8.5.2008
3rd (revised) draft: 8.5.2008

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

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

Resolution made and passed by the Legislative Council under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) on May 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, in the 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, by repealing the new section 4B(4) (a) and substituting -

"(a) any item in respect of which an exemption has been granted under section 1 of Part 2 of Schedule 6 is not labelled or displayed for sale in the manner specified in section 2A of that Part; or"

(d) in section 5, by adding -

"(6A) Regulation 5(3) is amended, in the Chinese text, by repealing "依照上述方式" and substituting "遵照上述規定"."

- (e) in section 10, in the new section 4(3) of Part 1 of Schedule 5, by repealing "Schedule" and substituting "Part";
- (f) in section 10, by repealing the new section 5 of Part 2 of Schedule 5;
- (g) 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";
- (h) 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";
- (i) 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 ingredient of the foods;

- (b) the volume, weight and packing size of the foods;
 - (c) the flavour of the foods;
 - (d) the manufacturer and packer of the foods; and
 - (e) the container of the foods.”;
- (j) 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.”;
- (k) 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).”;
- (l) in section 10, in the new Part 2 of Schedule 6, by adding -
- “2A. Labelling and 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 -
 - (i) indicating that the exemption has been so granted; and

- (ii) the design, form and use of which is specified by the Authority; and
- (b) the exemption number assigned by the Authority is also clearly -
 - (i) marked on the label specified in paragraph (a); or
 - (ii) displayed in close proximity to the place where the food is displayed for sale.";
- (m) 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)";
- (n) in section 10, in the new section 3(2) of Part 2 of Schedule 6, by adding "or 2(3A)" after "section 1(4)";
- (o) 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)".

Clerk to the Legislative Council

May 2008