

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

Matters Arising from Meeting on 19 May 2008

1. During discussion at the Subcommittee meeting on 19 May 2008, a Member asked about the legal effect of section 61 of the Public Health and Municipal Services Ordinance (Cap 132) vis-à-vis the exemption provision for small volume products under Cap 132W. He also asked whether a prepackaged food product has to have separate label for the different labelling requirements under Cap 132W. Another Member asked whether products already put on the market shelf before enactment or commencement of the Amendment Regulation would be allowed to be sold after the end of the grace period. This paper provides a written response to Members.

Section 61 of Cap 132

2. Section 61 of Cap 132 regulates the false labelling of food and drugs. In relation to food, section 61(1) of Cap 132 provides that if any person gives with any food sold by him, or displays with any food exposed for sale by him, a label, whether or not the same is attached to or printed on the wrapper or container, which

- (a) falsely describes the food; or
- (b) is calculated to mislead as to its nature, substance or quality,

he shall be guilty of an offence, unless he proves that he did not know, and could not with reasonable diligence have ascertained, that the label was of such a character as aforesaid. This provision is applicable to all food, including prepackaged food.

3. The new regulation 4B(4) and 4B(5A) of the Amendment Regulation proposes to exempt food products which have been granted an exemption under Part 2 of Schedule 6 to the Regulation from the requirements under regulation 4B(1) and 4B(5) of the Regulation.

Regulation 4B(1) requires all prepackaged food to be marked or labelled with its energy value and nutrient content (i.e. energy + seven core nutrients + claimed nutrient(s)) and regulation 4B(5) requires any nutrition claim to conform to Part 2 of Schedule 5 (i.e. including the conditions set out in Schedule 8 to the Regulation).

4. The provisions in the Amendment Regulation would not override section 61 of Cap 132. In other words, while food products may be exempted from nutrition labelling under the small volume exemption scheme under Cap 132W, the provisions regarding false labelling in section 61 of Cap 132 would still apply to these products.

Labelling Requirements for Prepackaged Food

5. Under Cap 132W, all prepackaged food (unless exempted) have to bear the required information as prescribed in the law, including information on ingredients, additives, allergen, use by date (or best before date), etc, for consumers' information. Such information, together with the nutrition information (or the warning label for exempted products), can be included in one single label, separate labels, or printed on the food container/packaging. The warning label must in any case follow the design and format specified by the Authority, including the font size, demarcation line, etc.

Sale of Food Products after the Grace Period

6. The Amendment Regulation would commence on 1 July 2010. Once the Amendment Regulation has commenced, all food products (unless exempted) would need to comply with the nutrition labelling requirements stipulated under the law. All food products, including those which have been placed on the market shelf before the enactment or commencement date of the Amendment Regulation, would have to be labelled in accordance with the legal requirements.

Food and Health Bureau
May 2008