

《 2008 年公眾衛生及市政(修訂)條例草案 》委員會
跟進在二零零九年一月二十二日法案委員會會議上提出的事項

目的

本文件載列我們對委員在二零零九年一月二十二日法案委員會會議上所提事項的回應。

第 78A 條中 “危害” 一詞的定義

2. 在考慮過委員的意見後，《2008 年公眾衛生及市政(修訂)條例草案》(《修訂條例草案》)第 78B 條中 “危害” 一詞的定義的中英文本現建議如下：

“Hazard” (危害) means a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect;¹

“危害” (hazard) 指食物中可能對健康導致不良影響的某種生物、化學或物理因素，或可能對健康導致不良影響的某種食物狀況。¹

3. 為提高準確度及一致性，《修訂條例草案》中數個詞語的中文本已予修改，包括將會把第 78B(2)條中 “danger” 一詞翻譯為 “危險”，以及第 78B(2A)(e)條中的數個詞語。修改建議如下：

Section 78B(2)

¹ 這與食品法典委員會所訂定 “危害” 一詞的定義一致。

The Authority may only make a section 78B order if the Authority has reasonable grounds at the time of making the order to believe that the making of the order is necessary to prevent or reduce a possibility of danger to public health or to mitigate any adverse consequence of a danger to public health.

~~凡主管當局在作出第 78B 條命令時，有合理理由相信有需要作出該命令，以防止對公眾衛生的危害，或減少危害公眾衛生的可能性，或緩解任何對公眾衛生的危害的不良後果，該命令方可作出。造成危險，或減少對公眾衛生造成危險的可能性，或緩解任何對公眾衛生造成危險的不良後果，該命令方可作出。~~

Section 78B(2A)(e)

characteristics of any hazard in the food, the level of the hazard in the food, consumption pattern of the food and the exposure of the general public and vulnerable groups to the food;

~~有關食物的任何危害的特性特徵、有關食物的危害的程度水平、有關食物的進用食用模式，及一般公眾和易受影響傷害組別人士接觸有關食物的情況；~~

第 78B(1)(e)條對進行關於任何食物的活動的規定

4. 我們在草擬《修訂條例草案》時曾參考多條海外法例，包括澳洲新南威爾士及維多利亞的食物安全法例。澳洲的法例賦權有關當局禁止或准許進行關於任何食物的活動，我們認為這項條文有助處理無法預見的食物事故。兩條法例的副本已載於法案委員會第 CB(2)297/08-09(04)號文件，而相關的條文現載於附件。

5. 第 78B(1)(e)條屬概括性條文，旨在涵蓋第 78B(1)(a)至(d)條未涵蓋的情況。該條文賦權食物環境衛生署署長(食環署署長)在命令內施加條件。以下是一些可能出現的例子—

- (a) 第 78(B)(1)(b)條賦權食環署署長作出命令以禁止供應任何食物。第 78A 條中“供應”一詞的定義不包括為非商業目的送出食物。正如在法案委員會會議上所闡釋，我們不擬把條文的範圍涵蓋任何人把食物作為禮品(或以任何理由)送給朋友、鄰居或辦公室同事的情況。儘管如此，食環署署長或需視乎情況，飭令禁止進行關於問題食物的活動，例如製造某種食物。在此情況下，有關當局可援引第 78B(1)(e)條。第 78B(3)條規定，命令將指明該命令所針對的食物詳情及須作出的禁制／行動(視乎情況而定)，以及有關的條件(如有的話)。
- (b) 過往曾出現一些個案，一些生的魚／蠔不擬供未經烹煮而食用，被供應作生吃。我們可根據第 78B(1)(e)條作出第 78B 條命令，禁止供應這類生的魚／蠔，除非有關產品已妥善附加警告標籤(例如此食品不擬供未經烹煮而食用)。
- (c) 如發現某一品牌的某種常用原料含有高度有毒物質，便可作出第 78B 條命令(根據第 78B(1)(e)條)，禁止所有本地製造商在生產食品時使用該種原料。

(d) 在作出第 78B 條命令以禁止供應某一特定食品後，主管當局留意到傳媒(報章、電視及電台等)上有廣告推廣該種食品(即第 78 條命令所針對的食品)的銷售，並對公眾造成混淆／誤導。在此情況下，主管當局可考慮根據第 78B(1)(e)條發出命令，禁止在某段期間內繼續使用該廣告。

徵詢意見

5. 請委員閱悉上述事項。

食物及衛生局
二零零九年二月

New South Wales

Food Act 2003 (Extract)

Part 3 – Emergency powers

31 Nature of order

An order under this Part may do any one or more of the following:

- (a) require the publication of warnings, in a form approved by the Food Authority, that a particular food or type of food is unsafe,
- (b) prohibit the cultivation, taking, harvesting or obtaining, from a specified area, of a particular food or type of food,
- (c) prohibit a particular food or type of food from being advertised or sold,
- (d) direct that a particular food or type of food consigned or distributed for sale or sold be recalled and specify the manner in which, and the period within which, the recall is to be conducted,
- (e) direct that a particular food or type of food be impounded, isolated, destroyed or otherwise disposed of and specify the manner in which the impounding, isolation, destruction or disposal is to be conducted,
- (f) prohibit absolutely the carrying on of an activity in relation to a particular food or type of food, or permit the carrying on of the activity in accordance with conditions specified in the order,**
- (g) without limiting the generality of paragraph (f), impose conditions relating to the taking and analysis of samples of the food or of water or soil or any other thing that is part of the environment in which that

activity is carried on in relation to the food,

(h) specify methods of analysis (not inconsistent with any methods prescribed by the Food Standards Code) of any samples required to be taken in accordance with the order.

Victoria

Food Act 1984 (Extract)

Part VII—Emergency Powers

44A Nature of order

- (1) An order under this Part may do any one or more of the following—
 - (a) require the publication of warnings, in a form approved by the Secretary, that a particular food or type of food is unsafe;
 - (b) prohibit the cultivation, taking, harvesting or obtaining, from a specified area, of a particular food or type of food or other primary produce intended to be used for human consumption;
 - (c) prohibit a particular food or type of food from being advertised or sold;
 - (d) direct that a particular food or type of food consigned or distributed for sale or sold be recalled and specify the manner in which, and the period within which, the recall is to be conducted;
 - (e) direct that a particular food or type of food or other primary produce intended to be used for human consumption be impounded, isolated, destroyed or otherwise disposed of and specify the manner in which the impounding, isolation, destruction or disposal is to be conducted;
 - (f) prohibit absolutely the carrying on of an activity in relation to a particular food or type of food, or permit the carrying on of the activity in accordance with conditions specified in the order;**
 - (g) without limiting the generality of paragraph (f), impose conditions for or with respect to requiring the taking and analysis of samples of the food or of water or soil or any other thing that is part of the environment in which that activity is carried on in relation to the food;

- (h) specify methods of analysis (not inconsistent with any methods prescribed by the Food Standards Code) of any samples required to be taken in accordance with the order.
- (2) An order under this Part may be varied or revoked by the Secretary in the same manner as the order was made.