

立法會
Legislative Council

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LC Paper No. CB(2)1988/08-09
(These minutes have been seen by the
Administration)

Subcommittee on Food Business (Amendment) Regulation 2009

Minutes of meeting
held on Friday, 29 May 2009, at 10:45 am
in Conference Room B of the Legislative Council Building

Members present : Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)
Hon Fred LI Wah-ming, JP
Hon CHAN Kam-lam, SBS, JP
Hon WONG Yung-kan, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Ting-kwong, BBS
Hon WONG Kwok-kin, BBS

Member absent : Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Public Officers attending : Item II

Prof Gabriel M LEUNG, JP
Under Secretary for Food and Health

Mr Owin FUNG
Principal Assistant Secretary for Food and Health (Food)3

Mr LO Fu-wai, JP
Assistant Director (Operations)1
Food and Environmental Hygiene Department

Miss Emma WONG
Senior Government Counsel (Acting)
Department of Justice

Clerk in attendance : Miss Mary SO
Chief Council Secretary (2)5

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Miss Joanne FONG
Senior Council Secretary (2)6

Ms Sandy HAU
Legislative Assistant (2)5

Action

I. Election of Chairman

Mr Tommy CHEUNG was elected Chairman of the Subcommittee.

II. Meeting with the Administration

[FH CR 2/3231/08, LS69/08-09, LC Paper Nos. CB(2)1689/08-09(02) and (03)]

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
3. Members noted that from 2004 to 2007, of the some 200 fish tank water samples taken from licensed food premises and market stalls selling live fish or live shell fish in Lei Yue Mun (LYM) for *E. coli* contamination each year, several samples from 2004 to 2007 each year were found to contain *E. coli* count exceeding 180 per 100 ml (known as the "action level") whereas some 16 samples were found to exceed the action level in 2008. Members further noted that two and one prosecutions were taken against the licensed food business premises in LYM for failing to meet the statutory standard of "*E. coli* less than 610 per 100 ml" in 2006 and 2007 respectively.
4. Mr Alan LEONG, Mr Fred LI, Mr WONG Yung-kan, Mr WONG Ting-kwong and the Chairman requested the Administration to re-align the demarcation of the prohibited areas proposed in the Food Business (Amendment) Regulation 2009 (the Amendment Regulation) to exclude the coastal strip of waters immediately outside the Sam Ka Tsuen Typhoon Shelter so as to preserve LYM seafood bazaar as one of the major tourist attractions in Hong Kong, having regard to the facts that the area where LYM seafood traders currently obtained seawater for keeping live seafood was located not far away from the proposed non-prohibited areas and that only two and one prosecutions were taken against the licensed food business premises for failing to meet the statutory standard of "*E. coli* less than 610 per 100 ml" in 2006 and 2007

Action

respectively. Mr LI further said that if this was not possible, the Administration should make use of the proposed construction of the LYM waterfront promenade to extract seawater from outside the proposed prohibited areas for use by LYM seafood traders.

5. The Administration responded as follows -

- (a) in response to the claims made by some seafood traders in LYM that the water quality of the coastal strip of waters immediately outside the Sam Ka Tsuen Typhoon Shelter was satisfactory and should therefore be excluded from the proposed prohibited areas, the Food and Environmental Hygiene Department engaged a laboratory accredited under the Hong Kong Laboratory Accreditation Scheme to ascertain the water quality of that coastal strip in accordance with the general protocol for marine water testing adopted by the Environmental Protection Department in September 2008. Laboratory findings were that the average *E. coli* content of seven of the 10 locations tested ranged from 629 to 990 per 100 ml and exceeded the statutory limit for fish tank water, which was "*E. coli* less than 610 per 100 ml and absence of pathogenic organisms". The *E. coli* counts at the remaining three locations ranged from 529 to 552 per 100 ml and were close to the statutory limit. On this basis, the Administration maintained its view that the coastal strip of waters immediately outside the Sam Ka Tsuen Typhoon Shelter should not be excluded from the proposed prohibited areas. It should also be pointed out to do otherwise would be tantamount to allowing flushing water for keeping live seafood intended for human consumption, as the target quality of flushing water was less than 1 000 *E. coli* per 100 ml, and licensees/stallholders were prohibited from using flushing water for keeping live fish or live shell fish. In fact, the *E. coli* count of flushing water was generally ranged between single to double digits per 100 ml;
- (b) the implementation of the Amendment Regulation would require LYM seafood traders to abandon the current practice of obtaining seawater along the coastal strip of waters immediately outside the Sam Ka Tsuen Typhoon Shelter round-the-clock for live seafood keeping, which amounted to some 300 tonnes a day as claimed by LYM seafood traders. However, there were alternative methods that the seafood traders could resort to. For example, the seafood traders could prepare their own synthetic seawater from marine salts and tap water, purchase seawater supplied by quality seawater suppliers and/or extract seawater by pipes directly from fishing boats/vessels which extracted seawater from non-prohibited areas and delivered fish supply to the seafood traders at

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the LYM coastal area. According to a survey conducted by the Administration on the source of water used by seafood restaurants or sales outlets, 222 of the 285 respondents indicated that they prepared their own synthetic seawater using marine salts and tap water. Of the remaining 63 respondents, they indicated that they either used natural seawater or used synthetic seawater and natural seawater concurrently;

- (c) using synthetic seawater and/or purchasing quality seawater should not entail significant increase in the operating costs of seafood traders. It was estimated that additional cost to traders for using synthetic seawater ranged from \$500 to \$3,000 per month per shop, whereas that for purchasing natural seawater ranged from \$1,000 to \$6,000 per month per shop; and
- (d) it would not be a prudent use of public money to construct seawater abstraction facilities to provide seawater from outside the proposed prohibited areas for use by LYM seafood traders, as the project would incur significant resources. There was also grave concern about the fluctuation of the quality of seawater just outside the proposed prohibited areas (i.e. east boundary of the Victoria Harbour) over time. Moreover, it would not be fair for the Administration to spend taxpayers' money to help a few seafood traders to maintain their mode of operation but risking the health of the public, not to mention that there were other viable alternatives as mentioned in (b) above.

6. Mr WONG Yung-kan and Mr WONG Ting-kwong were of the view that it was nothing new that the Government had provided funds to promote the development of select industries, such as tourism and the film industry. Mr Fred LI also said that there was no cause for concern that other seafood traders would demand the Government to help them obtain seawater from areas outside the non-prohibited areas, as no other seafood premises had the same circumstances as those in LYM.

7. Mr WONG Ting-kwong said that using synthetic seawater or quality seawater for keeping live seafood could not guarantee that the water quality would not exceed the action level or even the statutory limit for *E. coli* count. Mr CHAN Kam-lam expressed a similar view.

Admin

8. At the request of the Chairman, the Administration undertook to check and revert to members in writing the following -

- (a) whether any fish tank water samples taken from licensed food premises and market stalls selling live fish or live shell fish, which had exceeded the statutory limit for *E. coli* count in the past, were

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synthetic seawater or seawater provided by suppliers; and if so, the numbers involved; and

- (b) how many food poisoning cases occurred in the past 10 years were caused by consuming seafood kept in fish tank water by licensed food premises and market stalls in LYM.

9. Mr WONG Kwok-kin asked the Administration whether it would consider providing interest-free loan to LYM traders for making alterations to their fish tanks, arising from the implementation of the Amendment Regulation.

10. The Administration advised that the cost for making alterations to fish tanks was estimated to be about \$10,000 on average for a LYM seafood trader. The Administration would consider whether it was feasible to provide interest-free loan to LYM seafood traders to make alterations to their fish tanks and any possible read-across implications, should members so wish.

III. Any other business

Site visit to LYM

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Secretariat

11. Mr Fred LI suggested and members agreed to conduct a site visit to LYM to better understand the operation of the seafood traders thereat.

Inviting public views

12. Members agreed to decide after the site visit whether there was a need to invite public views on the Amendment Regulation.

Extension of scrutiny period

13. To allow more time to scrutinise the Amendment Regulation, members agreed that the Chairman should give notice to move a motion at the Council meeting on 10 June 2009 to extend the scrutiny period of the Amendment Regulation to 8 July 2009.

14. There being no other business, the meeting ended at 12:45 pm.

**Proceedings of the meeting of the
Subcommittee on Food Business (Amendment) Regulation 2009
on Friday, 29 May 2009, at 10:45 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000136	Mr Fred LI Mr Alan LEONG Mr Tommy CHEUNG	Election of Chairman	
000137 - 000311	Chairman	Opening remarks	
000312 - 000849	Admin	Briefing on the Food Business (Amendment) Regulation 2009 (the Amendment Regulation)	
000850 - 001802	Mr CHAN Kam-lam Admin Chairman	Fish tank water samples taken from licensed food premises and market stalls selling live fish or live shell fish in Lei Yue Mun (LYM) for <i>E. coli</i> contamination	
001803 - 003628	Mr Fred LI Admin Chairman	The Administration was requested to re-align the demarcation of the prohibited areas proposed in the Amendment Regulation to exclude the coastal strip of waters immediately outside the Sam Ka Tsuen Typhoon Shelter. Alternatively, the Administration should make use of the proposed construction of the LYM waterfront promenade to construct abstraction facilities to extract seawater from outside the proposed prohibited areas for use by LYM seafood traders	
003629 - 004953	Mr Alan LEONG Chairman Admin	Need to control the source of seawater to better safeguard public health	
004954 - 011022	Mr WONG Yung-kan Admin	Echoed Mr Fred LI's suggestions	
011023 - 012434	Mr WONG Kwok-kin Admin Chairman	Need for the Administration to come up with solutions to allow LYM seafood traders to continue to obtain seawater along the coastal strip of waters immediately outside the Sam Ka Tsuen Typhoon Shelter	
012435 - 012714	Mr Fred LI Chairman Mr CHAN Kam-lam	Site visit to LYM	
012715 - 013547	Mr CHAN Kam-lam Chairman Admin	Inviting public views on the Amendment Regulation	

Time marker	Speaker	Subject	Action required
013548 - 014605	Mr WONG Ting-kwong Admin Chairman	The Administration was requested to check and revert to members in writing the following - (a) whether any fish tank water samples taken from licensed food premises and market stalls selling live fish or live shell fish, which had exceeded the statutory limit for <i>E. coli</i> count in the past, were synthetic seawater or seawater provided by suppliers; and if so, the numbers involved; and (b) how many food poisoning cases occurred in the past 10 years were caused by consuming seafood kept in fish tank water by licensed food premises and market stalls in LYM.	Admin to provide a response (para. 8 of the minutes)
014606 - 015141	Mr Fred LI Chairman Admin	Reasons why flushing water was prohibited for keeping live seafood	
015142 - 015607	Mr WONG Yung-kan	Reiterated his views	
015608 - 015925	Chairman Mr WONG Yung-kan	Closing remarks	