

立法會
Legislative Council

Ref : CB2/BC/1/09

LC Paper No. CB(2)2083/09-10
(These minutes have been seen
by the Administration)

Bills Committee on Food Safety Bill

Minutes of meeting
held on Friday, 18 June 2010, at 8:30 am
in Conference Room A of the Legislative Council Building

- Members present** : Hon Fred LI Wah-ming, SBS, JP (Chairman)
Hon WONG Yung-kan, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Cyd HO Sau-lan
Hon CHAN Kin-por, JP
Hon CHEUNG Kwok-che
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man
- Members absent** : Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Ting-kwong, BBS, JP
- Public Officers attending** : Item II
Mr Philip CHAN Kwan-ye, JP
Deputy Secretary for Food and Health (Food)2

Miss Gillian LAM Yuk-ting
Principal Assistant Secretary for Food and Health (Food)1
(Acting)

Dr Constance CHAN, JP
Controller, Centre for Food Safety
Food and Environmental Hygiene Department

Dr LEE Siu-yuen
Assistant Director (Food Surveillance & Control)
Centre for Food Safety
Food and Environmental Hygiene Department

Ms Frances HUI Hang-ka
Senior Assistant Law Draftsman (Acting)
Department of Justice

Ms Angie LI Sau-lee
Government Counsel
Department of Justice

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

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Ms Maisie LAM
Senior Council Secretary (2) 6

Ms Sandy HAU
Legislative Assistant (2) 5

Action

I. Election of Chairman

Mr Fred LI was elected Chairman of the Bills Committee.

II. Meeting with the Administration

[Legislative Council Brief: File Ref: FH CR 1/3231/07, LC Paper Nos. LS70/09-10 and CB(2)1843/09-10(02)]

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

III. Date of next meeting

3. Members agreed to hold the next meeting on 16 July 2010 at 10:45 am to meet deputations to listen their views on the Bill.

(Post-meeting note: The next meeting was rescheduled to 22 July 2010 at 8:30 am.)

4. There being no other business, the meeting ended at 10:20 am.

**Proceedings of the meeting of the
Bills Committee on Food Safety Bill
on Friday, 18 June 2010, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000256	Mr Fred LI Dr Joseph LEE Ms Cyd HO	Election of Chairman	
000257 - 000439	Chairman	Opening remarks	
000440 - 001053	Admin	Briefing on the Food Safety Bill ("the Bill")	
001054 - 001902	Mr WONG Kwok-hing Admin	Measures to ensure food safety prior to the implementation of the Bill Prohibition on the extraction of seawater from specified prohibited areas for keeping live fish and live shell fish intended for sale for human consumption would come into force on 1 August 2010	
001903 - 002306	Mr Tommy CHEUNG	Commended the thorough work carried out by the Administration in consulting the trade on the proposals of the Bill Inviting the trade and relevant stakeholders to express views on the Bill	
002307 - 003821	Mr WONG Yung-kan Admin	Mr WONG's views on the need to introduce a licensing system to regulate oyster culture and fish pond culture, and to establish a fishing licence system to regulate fishing activities conducted within Hong Kong waters to control overfishing The Administration replied that - (a) primary producers like fish farmers, vegetable farmers, etc. who distributed their products and produce would fit the definition of "food distributors" and hence be required to register under the Bill. For food importers or distributors who had already registered or had obtained a licence/permission under other Ordinances as set out in Schedule 1 of the Bill, such as fishermen who were owners of Class III vessels and had already obtained relevant licence with the Marine Department, they would be exempted from the registration requirement as a trade facilitation measure since the Government already possessed their information; (b) the Bill would require any person, who, in the course of business, imported, acquired or supplied by wholesale food in Hong Kong to keep transaction records of the	

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		<p>business from which the food was obtained and to which it was supplied. In the case of fishermen who distributed their capture, they would be required to maintain capture records covering the date/period of the capture, the common name of the capture, the total quantity and the catch area. In fact, the fishermen associations had been consulted on the Bill and were aware of the requirement; and</p> <p>(c) licensing oyster farmers in Lau Fau Shan or fish pond owners was a separate issue and was not to be dealt with under the Bill. As requested by Mr WONG Yung-kan, the Administration would reflect his views to the Secretary for Food and Health ("SFH") for consideration</p>	
003822 - 005249	Mr Alan LEONG Admin	<p>Mr LEONG's concerns about -</p> <p>(a) the timetable on transferring Part V of the Public Health and Municipal Services Ordinance (Cap. 132) to the Bill;</p> <p>(b) effect of the amendment to section 67 of Cap. 132 to clarify that the evidential burden of proof, rather than the legal burden of proof, rested on a person wishing to rebut the presumptions; and</p> <p>(c) the manpower needed to enforce the registration scheme for food importers and distributors proposed under Bill</p> <p>The Administration replied that -</p> <p>(a) as it would take a long time to revamp Cap. 132, the Administration had decided to take forward the Bill first. However, the Administration would review the issue of consolidating the Bill and Cap. 132 in the long term. In the meantime, the two pieces of legislation would be operating consistently in parallel; and</p> <p>(b) with clause 67 of the Bill, the Administration had lowered the threshold of burden of proof due to human rights consideration</p>	
005250 - 010453	Mr Vincent FANG Admin	<p>Mr FANG's concerns about -</p> <p>(a) the need to require food traders to keep transaction records for a period of three months for live aquatic products and food with a shelf-life of three months or less;</p> <p>(b) the high penalty level for non-compliance with the record-keeping requirement;</p>	

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		<p>(c) the high registration and renewal fees under the registration scheme for food importers and distributors; and</p> <p>(d) the making of section 78B orders under Cap. 132</p> <p>The Administration replied that -</p> <p>(a) the record-keeping duration under the Bill was actually shorter than overseas countries. The trade had been consulted and was agreeable;</p> <p>(b) like other Government fees, the registration and renewal fees of \$195 and \$180 respectively for a three-year term had been drawn up on a full-cost recovery basis; and</p> <p>(c) so far, the Administration had not made any orders under section 78B of Cap. 132 and it would exercise this power with caution bearing in mind the impact to the trade. That said, it was important and necessary for the Administration to have such power to make orders to prohibit the import and supply of problem food and order a food recall when there was reasonable grounds to believe that public health was at risk</p>	
010454 - 011714	Dr Joseph LEE Admin	<p>Dr LEE's view that the short title of the Bill might be a misnomer in that the primary objective of the Bill was to enable the Administration to trace where the problem food came from and where it went</p> <p>The Administration replied that the traceability system to be introduced under the Bill was an important element in safeguarding food safety. Furthermore, the Bill also empowered SFH to make regulations on the import control for specific food types to regulate high-risk foods. The proposal to extend the existing import control to cover poultry eggs and aquatic products was under consultation</p>	
011715 - 012850	Chairman Admin	<p>Persons who held food-related licences or other authorisations specified in Schedule 1 to the Bill would be exempted from the requirement to register</p> <p>Food traders, such as vegetable and fish farmers, who sold their produce to the ultimate consumers, say, in open-air bazaars, would not be required to register. But fishermen who distributed their wild catch would be required to maintain capture records covering the date/period of the capture, the common name</p>	

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		<p>of the capture, the total quantity and the catch area</p> <p>Clause 25 of the Bill provided a defence if the food retailer concerned could show that it was the retailer's normal business to supply food by retail and it was reasonable to assume that the particular transaction was not a wholesale supply. Supermarkets however would need to keep the transaction records if it was reasonable to assume that the supply was a wholesale supply</p>	
012851 - 014144	Mr WONG Yung-kan Admin Chairman	<p>Mr WONG reiterated his views on the need to introduce a licensing system to regulate oyster culture and fish pond culture to further enhance food traceability</p> <p>The Bill would empower SFH to make regulations for the import control of specific food types. Two sets of regulations under the Bill, namely (a) Imported Game, Meat, Poultry and Poultry Eggs Regulation and (b) Imported Aquatic Products Regulation, to cover food with a high potential health risk would be made</p> <p>The Centre for Food Safety of the Food and Environmental Hygiene Department had sufficient manpower requirement to enforce the Bill. Where necessary, additional funding to improve manpower would be sought</p>	
014145 - 014529	Mr Vincent FANG Admin Chairman	<p>The Bill would not apply to bona fide travellers who imported food in their personal baggage for non-commercial use</p> <p>Mr FANG's concern about how the Administration could determine that a particular traveler who imported food in their personal baggage into Hong Kong was indeed for non-commercial use</p> <p>The Administration replied that in dealing with the issue of parallel imports (水貨客), if these people were found not registered under the Bill, they would be caught by the law for non-compliance with the registration requirement. Enforcement would be taken on the basis of intelligence gathered</p>	
014530 - 014649	Chairman Admin	<p>The Chairman's question on whether local oyster and pond fish farmers were aware of the registration and the record-keeping requirements proposed under the Bill</p> <p>The Administration replied that local oyster farmers and pond fish farmers were consulted and had no problem with the registration and the record-keeping requirements proposed under the Bill</p>	

Time marker	Speaker	Subject	Action required
014650 - 014859	Mr WONG Yung-kan	Reiterated his views on the need to introduce a licensing system to regulate oyster culture and fish pond culture to further enhance food traceability	
014900 - 015007	Chairman	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
15 July 2010