

立法會
Legislative Council

Ref : CB2/BC/1/09

LC Paper No. CB(2)278/10-11
(These minutes have been seen
by the Administration)

Bills Committee on Food Safety Bill

Minutes of meeting
held on Monday, 18 October 2010, at 10:45 am
in Conference Room A of the Legislative Council Building

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

Mr Philip CHAN Kwan-yea, JP
Deputy Secretary for Food and Health (Food)2

Mr Kevin YEUNG Yun-hung
Principal Assistant Secretary for Food and Health (Food)1

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

Mr Paul John O'BRIEN
Senior Assistant Law Draftsman
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 YICK Wing-kin
Assistant Legal Adviser 8

Ms Maisie LAM
Senior Council Secretary (2) 6

Ms Priscilla LAU
Council Secretary (2) 5

Ms Sandy HAU
Legislative Assistant (2) 5

Action

I. Meeting with the Administration
[LC Paper No. CB(2)20/10-11(01)]

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

2. Ms Audrey EU remained of the view that using the phrase "the period of the capture" in the template for record of capture of local aquatic products was too open-ended and a specific duration should best be provided by fishermen. The Administration responded that the reason for not specifying a specific duration in the Bill, as well as in the record template, was because it would be difficult for fishermen to comply as the mode of operation varied among fishermen. The Administration pointed out that outcome of the pilot scheme on record keeping by fishermen conducted by the Centre for Food Safety ("CFS") from 29 July to 10 September 2010 revealed that fishermen generally had no difficulties in providing either the date or period of their capture. At the request of the Chairman, the Administration undertook to provide records of capture of local aquatic products completed by the 22 fishermen participated in the scheme.

3. Ms Cyd HO expressed concern about exempting charitable food banks from the requirement to keep records, as not all food donated was in pre-packaged form with manufacturing details provided. For instance, at present some hotels donated leftover cooked food to social enterprises for distribution/sale to the grassroots.

Admin

Action

4. The Administration responded that not all charitable food banks would be exempted from the record-keeping requirement under the Bill. In making the decision, the Director of Food and Environmental Hygiene ("DFEH") would take into account all factors relevant to the circumstances of the case as set out in paragraph 8 of the Administration's responses to issues raised by the Bills Committee on 29 September 2010 (LC Paper No. CB(2)20/10-11(01)). The Administration had met with four organisations subvented by the Social Welfare Department ("SWD") on operating charitable food banks to understand their operation, including whether they had mechanisms in place to ensure that the food they supplied were safe (for example, whether the staff from the organisation would check the labels for expiry dates or conditions of the food for deterioration). It was understood that these organisations generally would not accept food which were not in pre-packaged form.

5. The Chairman said that the Administration should also meet with those non-subvented organisations, such as social enterprises, operating food banks to understand their operation. The Chairman then asked whether charitable food banks would need to register with DFEH under the Bill. The Administration replied that food banks, in supplying food to ultimate consumers, was in the same position as a retailer and hence would not need to be registered under the Bill. . Mr CHEUNG Kwok-che advised that it could not be ruled out that the existing five organisations subvented by SWD to operate charitable food banks would use local groups to distribute food to the needy at districts. At the request of the Chairman, Mr CHEUNG Kwok-che undertook to take up with the Administration after the meeting to arrange a briefing for all organisations operating food banks about the registration and record-keeping requirements under the Bill.

Admin

6. Ms Cyd HO urged the Administration to ensure that food supplied by charitable food banks were safe on the one hand, and ensure that organisations, such as hotels, would not be deterred from donating food to food banks for fear of committing an offence under the food safety legislation through no fault of their own but unhygienic handling of the donated food by the food banks.

7. Mr WONG Yuk-man said that he could not agree with the Administration's comments on the Chinese term "期間" under Clause 23(1)(a) of the Bill set out in paragraph 18 of LC Paper No. CB(2)20/10-11(01). Mr WONG remained of the view that the Chinese term "期間" under Clause 23(1)(a) of the Bill should be amended to fully align with its English rendition "period of the capture". The Administration reiterated that outcome of the pilot scheme on record keeping by fishermen conducted by CFS from 29 July 2010 to 10 September 2010 revealed that fishermen generally had no difficulties in providing either the date or period of their capture.

Action

Clause-by-clause examination of the Bill

Clause 1 - Short title and commencement

Admin 8. In view of the fact that some 8 600 food traders would need to register with DFEH under the Bill, the Chairman, Mr WONG Ting-kwong and Ms Cyd HO requested the Administration to lay down a performance pledge on the time for completing processing of applications for registration. The Administration agreed to provide members with the performance pledge before the next meeting.

Clause 2 - Interpretation

Admin 9. At the request of the Chairman, the Administration undertook to check and revert to members whether Chinese medicine shops selling products, such as "陳皮" and "杞子", which were neither Chinese herbal medicine nor Chinese proprietary medicine, were required to comply with the registration and record-keeping requirements under the Bill.

10. Noting that DFEH must assign a registration number to the successful applicant, the Chairman and Ms Audrey EU asked whether consideration could be given to requiring food traders to print the registration numbers in their invoices, so as to obviate the need for people to check the register to be set up by the Administration as to whether a particular food trader had already registered with DFEH as a food importer or distributor. The Administration expressed reservation about the suggestion as to do so would impose additional burden on the trade.

II. Dates of next meetings

11. Members agreed to hold the next two meetings on the following dates -

(a) 1 November 2010 at 10:45 am; and

(b) 16 November 2010 at 4:30 pm.

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

**Proceedings of the meeting of the
Bills Committee on Food Safety Bill
on Monday, 18 October 2010, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000323	Chairman	Opening remarks	
000324 - 001235	Admin	Briefing by the Administration on its response to issues raised by members at the meeting on 29 September 2010 [LC Paper No. CB(2)20/10-11(01)]	
001236 - 002054	Chairman Ms Audrey EU Admin	The Chinese rendition of the word "period" ("期間") in clause 23(1)(a) of the Food Safety Bill ("the Bill") The Administration undertook to provide records of capture of local aquatic products completed by the 22 fishermen participating in the pilot scheme on record keeping by fishermen conducted by the Centre for Food Safety from 29 July to 10 September 2010	Admin (para. 2 of the minutes refers)
002055 - 003513	Ms Cyd HO Chairman Admin Mr CHEUNG Kwok-che	The proposed exemption of charitable food banks from the requirement to keep records Mr CHEUNG Kwok-che undertook to take up with the Administration after the meeting to arrange a briefing for all organisations operating food banks about the registration and record-keeping requirements under the Bill	Admin (para. 5 of the minutes refers)
003514 - 004236	Chairman Mr WONG Yuk-man Admin	The Chinese rendition of the word "period" ("期間") in clause 23(1)(a) of the Bill	
004237 - 004839	Chairman	Suspension of the meeting for 5 minutes	
004840 - 005325	Chairman Admin Ms Cyd HO	Clause-by-clause examination of the Bill Main object of the Bill	
005326 - 011116	Admin Chairman Mr WONG Ting-kwong Admin Chairman Ms Cyd HO Mr CHEUNG Kwok-che	<u>Clause 1 - Short title and commencement</u> The Administration was requested to provide members with the performance pledge on the time for processing of applications for registration before the next meeting.	Admin (para. 8 of the minutes refers)
011117 - 011359	Admin Chairman Ms Cyd HO	<u>Clause 2 - Interpretation</u> Interpretations of "aquatic product" and "export" in the Bill	
011400 - 011502	Admin Mr WONG Ting-kwong Chairman	Interpretations of "local aquatic product" and "local fishing vessel" in the Bill	
011503 - 011507	Admin	Interpretation of "Secretary" in the Bill	

Time marker	Speaker	Subject	Action required
011508 - 011834	Admin Chairman	Interpretations of "wholesale", "supply" "food distributor" and "food distribution business" in the Bill	
011835 - 013131	Chairman Admin Ms Cyd HO Mr CHEUNG Kwok-che Mr Wong Yuk-man	<p>Interpretation of "food" in the Bill</p> <p>Discussion on what constituted articles or substances used only as drugs and the concern about the possible ambiguity of some traditional Chinese herbs which could serve as soup ingredients or snacks as well as medicine at the same time</p> <p>The Administration undertook to check and revert to members whether Chinese medicine shops selling products, such as "陳皮" and "杞子", which were neither Chinese herbal medicine nor Chinese proprietary medicine, were required to comply with the registration and record-keeping requirements under the Bill</p>	Admin (para. 9 of the minutes refers)
013132 - 013152	Admin	Interpretation of "food safety order" in the Bill	
013153 - 013445	Admin Chairman	<p>Interpretations of "food importer" and "food importation business" in the Bill</p> <p>According to clause 4(3)(d) of the Bill, the registration requirement for food importers would not apply if food imported was solely in the course of business of a food transport operator</p>	
013446 - 014154	Ms Audrey EU Admin Chairman Mr CHEUNG Kwok-che	<p>Interpretation of "food distribution business" in the Bill</p> <p>Discussion on clause 2(2) of the Bill which stipulated that in determining whether the principal activity of a business was the supply of food in Hong Kong by wholesale, regard had to be made only to those activities of the business that were related to the supply of food</p> <p>Food 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 operators of food factories who had obtained relevant licence under Part IV of the Food Business Regulation (Cap. 132X), would be exempted from the registration requirement as a trade facilitation measure</p> <p>According to clause 5(3)(c) of the Bill, the registration requirement for food distributors would not apply if the person was registered under Part 2 of the Bill as a food importer in respect of the business</p>	
014155 - 014819	Admin Ms Audrey EU Mr CHEUNG Kwok-che Chairman	<p>Interpretation of "food transport operator" in the Bill</p> <p>Discussion on clause 4(3)(d) of the Bill</p>	
014820 - 014850	Admin	Interpretations of "air transshipment cargo", "premises", "animal" and "import" in the Bill	
014851 - 020129	Admin Chairman Ms Audrey EU	Interpretations of "registered food distributor" and "registered food importer" in the Bill	

Time marker	Speaker	Subject	Action required
		<p>According to clause 15(4) of the Bill, the register of registered food importers and registered food distributors would be made available for public inspection so as to enable members of the public to ascertain whether a person was registered under Part 2 of the Bill. The Administration intended to upload the register to the internet, in addition to the paper register</p> <p>The suggestion that food traders should be required to print the registration numbers in their invoices, so as to obviate the need for people to check the register to be set up by the Administration as to whether a particular food trader had already registered with the Director of Food and Environmental Hygiene as a food importer or distributor</p>	
020130 - 020423	Chairman Mr WONG Yuk-man Admin	Dates of next meetings	

Council Business Division 2
Legislative Council Secretariat
12 November 2010