

**立法會**  
**Legislative Council**

Ref : CB2/BC/1/09

LC Paper No. CB(2)1940/10-11  
(These minutes have been seen  
by the Administration)

**Bills Committee on Food Safety Bill**

**Minutes of meeting**  
**held on Friday, 3 December 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 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 Alan LEONG Kah-kit, SC

**Members absent** : Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon WONG Yuk-man

**Public Officers attending** : Item I  
Mr Philip CHAN Kwan-ye, JP  
Deputy Secretary for Food and Health (Food) 2  
  
Mr Kevin YEUNG Yun-hung  
Principal Assistant Secretary for Food and Health (Food) 1  
  
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

Mr Paul John O'BRIEN  
Senior Assistant Law Draftsman  
Department of Justice

Ms Angie LI Sau-lee  
Senior 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 Sandy HAU  
Legislative Assistant (2) 5

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**I. Meeting with the Administration**  
[LC Paper No. CB(2)433/10-11(01)]

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

2. The Bills Committee noted the Administration's response to issues raised by members at the last meeting held on 16 November 2010 (LC Paper No. CB(2)433/10-11(01)) and did not raise any queries.

*Clause 11 – Application for renewal of registration*

3. Mr WONG Ting-kwong noted that under clause 11(4), if the Director of Food and Environmental Hygiene ("DFEH") had not made a decision on a renewal application before the registration expired, the registration would continue in effect until the registration was renewed or DFEH gave notice of refusal. Mr WONG pointed out that such an arrangement was not reasonable, as a registration should no longer be in

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effect unless the registration was renewed upon the expiry of the registration. Mr WONG was of the view that DFEH should grant a renewal application if the applicant had submitted all the required information, even if DFEH needed more time beyond the expiry date of the registration to consider whether a renewal should be granted. Under clause 14, DFEH was empowered to revoke a registration if the registered person had repeatedly contravened the Food Safety Ordinance in the previous 12 months.

4. Mr Tommy CHEUNG welcomed that the validity period of registration and renewal under the Bill was each for a period of three years, which was a trade facilitation measure. Mr CHEUNG however hoped that DFEH would grant a renewal application even if the traders missed the deadline for renewal of registration for a short period, say, one or two days, provided that the traders concerned submitted all the required information.

5. The Administration responded that in determining an application for registration or renewal of registration, the Director would need to give due consideration to all relevant factors, including the completeness of the information submitted and any record of previous contraventions of the Bill or revocation of the registration in the previous 12 months. In view of the time the Director might need to consider the above factors, clause 11(4) was intended to facilitate those traders, who submitted their renewal applications just before the expiry date of the current registration and/or were under checking by DEEH as to whether they had any previous record of contraventions of the Bill or revocation of the registration in the previous 12 months, so that they could continue their operation after the expiry of their current registration. The Administration further said that traders who had missed the deadline for renewal of registration would need to submit applications for registration under clause 7(1). This was because under clause 11(1), only a registered food importer or registered food distributor might apply for renewal of registration. If the registration had expired, the concerned food importer or food distributor was no longer a registered food importer or food distributor and hence could not apply for renewal under clause 11. It should be noted that prior to the expiry of the registration, the Centre for Food Safety would issue letters to remind the concerned trader to renew their registration.

6. Mr Alan LEONG suggested that one way to obviate the need of clause 11(4) was to require traders to apply for renewal of registration no later than one month before the expiry of their registration. The Administration responded that the proposal of Mr LEONG would introduce another condition for applying for renewal of registration whereas clause 11(4) aimed to provide the operational convenience to applicant by

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allowing them to continue their business whilst awaiting the outcome of their applications for renewal of registration under clause 11(1).

Admin

7. Ms Audrey EU was of the view that instead of requiring traders to apply for renewal of registration no later than one month before the expiry of their registration, a better approach would be for the Administration to provide a performance pledge on the processing time of an application for the registration under clause 7(1) and, with an undertaking by the Secretary for Food and Health to do so in his speech during the resumption of Second Reading debate on the Bill in the Council. Ms Cyd HO and Mr Alan LEONG expressed support for Ms EU's proposal. The Administration agreed to consider providing a performance pledge and revert in writing.

8. In response to Ms Audrey EU's enquiry about whether the processing time of an application for the registration under clause 7(1) would be longer than that of an application for renewal of registration under clause 11(2), the Administration advised that the processing time of an application for registration would not take long if the applicant submitted all the required information.

Admin

9. Mr WONG Yung-kan asked whether consideration could be given to creating a provisional registration for applicants who had missed the deadline for renewal of registration under clause 11 so that they could continue their business whilst awaiting the outcome of their applications under clause 7(1). Ms Audrey EU and Ms Cyd HO expressed support for the proposal. Ms EU further proposed that a higher fee should be charged for these applications for provisional registration. The Administration agreed to consider and revert in writing after the meeting.

## **II. Date of next meeting**

10. Members agreed to hold the next meeting on 14 December 2010 at 8:30 am.

11. There being no other business, the meeting ended at 10:35 am.

**Proceedings of the meeting of the  
Bills Committee on Food Safety Bill  
on Friday, 3 December 2010, at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000259	Chairman	Opening remarks	
000300 - 001344	Admin Mr Vincent FANG	Briefing by the Administration on its response to issues raised by members at the meeting on 16 November 2010 [LC Paper No. CB(2)433/10-11(01)]	
001345 - 001713	Chairman Mr Vincent FANG Admin	Whether operators of vessels, vehicles and aircraft where food was prepared for human consumption were required to register under the Food Safety Bill ("the Bill")	
001714 - 001913	Chairman Admin	<u>Clause-by-clause examination of the Bill</u>  <i>Clause 10 - Conditions of registration</i>	
001914 - 002618	Chairman Admin	<i>Clause 11 - Application for renewal of registration</i> <i>Clause 12 - Determination of application for renewal</i> <i>Clause 13 - Renewal of registration</i>	
002619 - 003544	Mr WONG Ting-kwong Admin Chairman	Mr WONG's view that the Director of Food and Environmental Hygiene ("DFEH") should grant a renewal application if the applicant had submitted all the required information, even if DFEH needed more time beyond the expiry date of the registration to consider whether a renewal should be granted  Administration's reply that in determining an application for registration or renewal of registration, DFEH would need to give due consideration to all relevant factors including the completeness of the information submitted and any record of previous contraventions of the Bill or revocation of the registration in the previous 12 months. In view of the time the Director might need to consider these factors, Clause 11(4) was intended to facilitate those traders, who submitted their renewal applications just before the expiry date of their current registration and/or were under checking by DEEH as to whether they had any previous record of contraventions of the Bill or revocation of the registration in the previous 12 months, so that they could continue their operation after the expiry of their current registration	
003545 - 005499	Mr Vincent FANG Admin Mr WONG Ting-kwong Chairman	The date on which the payment of the renewal fee should be made  Whether traders who inadvertently missed the deadline for renewal of registration for a short period could apply for renewal of their registration and continue their business under clause 11	

Time marker	Speaker	Subject	Action required
005450 - 011035	Mr Tommy CHEUNG Admin Chairman Mr Vincent FANG Mr WONG Ting-kwong	<p>Welcomed that the validity period of registration and renewal under the Bill was each for a period of three years, which was a trade facilitation measure</p> <p>Mr CHEUNG and Mr FANG's view that DFEH should grant a renewal application if the traders missed the deadline for renewal of registration for a short period, say, one or two days, provided that the traders concerned submitted all the required information</p> <p>Administration's response that traders who had missed the deadline for renewal of registration would need to submit applications for registration under clause 7(1). This was because under clause 11(1), only a registered food importer or registered food distributor might apply for renewal of registration</p>	
011036 - 011517	Chairman ALA8 Admin	<p>Meaning of "registered food importer or registered food distributor" in clause 11(1)</p> <p>Whether the use of the term "may" in clause 11(3) gave a discretion to the Director to consider a late application for renewal of registration that did not comply with clause 11(2)(c)(i)</p>	
011518 - 012827	Mr Alan LEONG Admin Chairman	<p>Mr LEONG's suggestion that one way to obviate the need of clause 11(4) was to require traders to apply for renewal of registration no later than one month before the expiry of their registration</p> <p>Administration's response that the proposal of Mr LEONG would introduce another condition for applying for renewal of registration whereas clause 11(4) aimed to provide the operational convenience to applicant by allowing them to continue their business whilst awaiting the outcome of their applications for renewal of registration under clause 11(1)</p>	
012828 - 015038	Ms Audrey EU Ms Cyd HO Chairman Admin Mr Alan LEONG	<p>Ms EU's view that instead of requiring traders to apply for renewal of registration no later than one month before the expiry of their registration, a better approach would be for the Administration to provide a performance pledge on the processing time of an application for the registration under clause 7(1) and that the Secretary for Food and Health would undertake to do so in his speech during the resumption of Second Reading debate on the Bill in the Council</p> <p>Ms HO and Mr LEONG's expression of support for Ms EU's proposal. The Administration undertook to consider providing a performance pledge and revert in writing</p> <p>The processing time of an application for the registration under clause 7(1)</p>	<b>Admin (para. 7 of the minutes refers)</b>
015039 - 015335	Mr WONG Yung-kan Ms Audrey EU Ms Cyd HO Chairman Admin	Mr WONG's suggestion that a provisional registration should be created for applicants who had missed the deadline for renewal of registration under clause 11 of the Bill so that they could continue their business whilst awaiting the outcome of their applications under clause 7(1)	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
		Ms EU and Ms HO's expression of support for the proposal and Ms EU's further suggestion that a higher fee should be charged for these applications for provisional registration. The Administration undertook to consider and revert in writing the proposals	<b>Admin (para. 9 of the minutes refers)</b>
015336 - 020821	Mr WONG Ting-kwong Admin Chairman Ms Cyd HO	A person's obligation to inform the Director of any change in the information provided to the Director in, or in relation to, his/her application for renewal of registration during the period referred to in clause 11(4)  What constituted contravention of the Bill	
020822 - 021021	Chairman WONG Ting-kwong Mr CHAN Kin-por	Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
1 June 2011