

立法會
Legislative Council

Ref : CB2/BC/1/09

LC Paper No. CB(2)1941/10-11
(These minutes have been seen
by the Administration)

Bills Committee on Food Safety Bill

Minutes of meeting
held on Tuesday, 14 December 2010, at 8:30 am
in Conference Room B 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 WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, SBS, JP
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 : Hon WONG Yung-kan, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Yuk-man

Public Officers attending : Item I
Mr Philip CHAN Kwan-yea, 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 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

Action

I. Meeting with the Administration
[LC Paper No. CB(2)543/10-11(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 3 December 2010 (LC Paper No. CB(2)543/10-11(01)). In response to the Chairman's enquiry, the Administration would conduct random check to find out whether those persons who did not renew the registration under the Food Safety Ordinance still continued their food importation or food distribution business.

Clause-by-clause examination of the Bill

Clause 14 - Revocation of registration

3. The Administration advised that consideration was being given to introducing a Demerit Point System in relation to the revocation of registration of food importers and food distributors who repeatedly contravened the Food Safety Ordinance in the past 12 months. The trade

Action

would be consulted if the Administration considered that the system was worth pursuing.

4. Mr Tommy CHEUNG noted that under clause 14(2)(b), the Director of Food and Environmental Hygiene ("DFEH") could revoke a person's registration in respect of a business (i.e. food importation business or food distribution business), if DFEH was satisfied that, in the case of a natural person, the person had died. Mr CHEUNG said that to enable immediate family member or successor of the deceased to continue operating the business previously registered under the name of the deceased, automatic transfer of registration to immediate family member or successor of the deceased should be allowed as practised in the transfer of liquor licence if the licensee had died.

5. Mr WONG Ting-kwong was of the view that instead of revoking a person's registration if that person died, it was more preferable from a management point of view if DFEH allowed that person's registration be transferred to his/her family member or business partner.

6. The Administration advised that clause 14(5)(b) stipulated that revocation of registration took effect on the expiry of 30 days after the day on which the decision to revoke the registration was made. This should allow adequate time for the family member or the related person to make a new application and for the application to be processed. The Administration undertook to state in the guidelines for registration that in case of death of a natural person who held a valid registration prior to his death, if anyone wished to continue operating the business registered under the name of the deceased, a new application would have to be made.

Admin

7. Mr Tommy CHEUNG said that it would be difficult for the Administration to trace the source of problem food if a food importation/distribution business registered under the name of the deceased was taken over by another person under a new registration, as the latter was not obliged to maintain the records of the movement of the problem food previously kept by the deceased.

8. The Administration responded that it was unlikely that the new registrant would dispose the records of the acquisition and supply of food kept by the deceased, if the new registrant wished to continue to carry on the business registered under the name of the deceased.

Action

9. Ms Audrey EU agreed in principle that anyone wishing to continue operating the business registered under the name of the deceased should apply for a new application. Ms EU, however, was of the view that the Administration should make clear under what circumstances DFEH would exercise his power under clause 14(2)(b) to revoke a registration, as the family member or the successor of the deceased might wish to sell the business of the deceased and it would be much easier to do so and at a good price if the business was a going concern.

10. Assistant Legal Adviser 8 sought clarification from the Administration whether a sole proprietary food importation or food distribution business registered under the name of a natural person would be revoked by DFEH if that person was bankrupt.

11. The Administration advised that the fact that a registered food importer/ food distributor was bankrupt did not necessarily mean that he/she would cease trading. As such, revocation of registration would not be applied in this case if the business was ongoing.

II. Date of next meeting

12. Members agreed to hold the next meeting on 29 December 2010 at 10:45 am.

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

Council Business Division 2
Legislative Council Secretariat
1 June 2011

**Proceedings of the meeting of the
Bills Committee on Food Safety Bill
on Tuesday, 14 December 2010, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000358	Chairman	Opening remarks	
000359 - 001017	Admin	Briefing by the Administration on its response to issues raised by members at the meeting on 3 December 2010 [LC Paper No. CB(2)543/10-11(01)]	
001018 - 002927	Chairman Mr WONG Ting-kwong Mr CHEUNG Kwok-chu Admin	<p>Welcomed the Director of Food and Environmental Hygiene ("DFEH")'s undertaking to grant an application for registration within seven working days upon the receipt of all the required information and to issue reminder letters to registered food importers/distributors before expiry of their registrations.</p> <p>The Administration replied that -</p> <p>(a) under clause 11(4), if an application was made in accordance with clause 11 but the DFEH had not made a decision on the application before the day on which the registration was due to expire, the registration would continue in effect until it was renewed under clause 13 or the DFEH gave notice to the applicant of the DFEH's decision to refuse the application;</p> <p>(b) if the registered food importers/ food distributors missed the deadline to apply for renewal of application, they would need to submit applications for registration under clause 7(1) as under clause 11(1), only a "registered food importer or registered food distributor might apply for renewal of registration"; and</p> <p>(c) the Centre for Food Safety of the Food and Environmental Hygiene Department would conduct random check to find out whether those persons who did not renew the registration under the Food Safety Ordinance still carried on their food importation or food distribution business.</p>	
002928 - 013831	Chairman Admin Mr Tommy CHEUNG Mr WONG Ting-kwong Ms Audrey EU Mr CHAN Kin-por Dr Joseph LEE ALA8	<p><u>Clause-by-clause examination of the Bill</u></p> <p><i>Clause 14 - Revocation of registration</i></p> <p>The Administration undertook to state in the guidelines for registration that in case of death of a natural person who held a valid registration prior to his death, if anyone wished to continue operating the business registered under the name of the deceased, a new application would have to be made.</p>	Admin (para. 6 of the minutes refers)
013832 - 014508	Chairman Admin	<p><i>Clause 15 - The register</i></p> <p><i>Clause 16 - Appeals to Municipal Services</i></p> <p><i>Clause 17 - Updating of information</i></p>	

Time marker	Speaker	Subject	Action required
		<i>Clause 18 - Obtaining information from certain Authorities</i>	
014509 - 015133	Admin Chairman ALA8	<i>Clause 19 - Obtaining information from persons who are not registered</i>	
015134 - 015228	Admin	<i>Clause 20 - Providing false information in relation to registration or renewal</i>	
015229 - 020218	Admin Mr WONG Ting-kwong Dr Joseph LEE Chairman	<i>Clause 21 - Record of local acquisition of food</i>	
020219 - 020430	Chairman Dr Joseph LEE	Date of next meeting	

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