

**立法會**  
**Legislative Council**

Ref : CB2/BC/1/09

LC Paper No. CB(2)1942/10-11  
(These minutes have been seen  
by the Administration)

**Bills Committee on Food Safety Bill**

**Minutes of meeting**  
**held on Wednesday, 29 December 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 WONG Yung-kan, SBS, JP  
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 Vincent FANG Kang, 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

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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Action

**I. Meeting with the Administration**  
[LC Paper No. CB(2)666/10-11(01)]

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

Clause-by-clause examination of the Bill

*Clause 22 - Record of acquisition of imported food*

2. Members noted that although food business operators would be exempted from registering with the Director of Food and Environmental Hygiene ("DFEH") under Part 2 of the Bill if they had obtained a permit or licence in relation to their food businesses under the Food Business Regulation (Cap. 132X), they would be required under clause 22 of the Bill to keep and maintain records of the food they brought back to Hong Kong from abroad, such as spices, for use in food to supply to their customers. The Chairman urged the Administration to make clear such requirement to the catering trade.

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*Clause 26 - Duration of keeping records*

3. Mr WONG Yung-kan questioned the necessity of requiring fish farmers and fishermen to keep transaction records of live fish for three months, and suggested that such period be shortened, such as to one month.

4. The Administration responded that the proposed duration of record-keeping was less stringent than those of other overseas jurisdictions. For example, in the European Union and the United States, the duration of record-keeping for highly perishable food items (e.g. "use-by" date of less than three months) was six months. Furthermore, according to the feedback obtained from the Business Impact Assessment conducted to study the implications and compliance costs for the trade, the trade generally accepted the proposed record-keeping requirements, including the duration of the record-keeping period which was based on the shelf-life of the food products. For most of the traders interviewed, record-keeping was already an established practice for tax filing purposes. In Hong Kong, every business was required to keep sufficient business records for seven years for such purposes. The Administration further said that in order to trace problem food effectively, it was necessary to require traders along the whole food supply chain, i.e. from farm to table, to maintain records of the movement of food. To ensure that the proposed record keeping requirement was practicable, the Centre for Food Safety had launched pilot exercises of record keeping in market stalls, fixed pitch hawker stalls, licensed/permitted food premises and other food shops selling different food categories in Central and Western, Wan Chai, Sham Shui Po, Yau Tsim Mong, Tuen Mun and Yuen Long. Whilst some traders were not familiar with the requirement initially, they had no problem complying gradually with more guidance.

5. In response to Mr WONG Ting-kwong's enquiry, the Administration said that there was no specified format for traders to record information required under clauses 21, 22, 23 and 24 of the Bill so long as the records contained all the information required under these clauses. However, the Administration also pointed out that under clause 27(3), a registered food importer or food distributor must provide any assistance reasonably required by DFEH or authorised officer to understand or interpret a record produced by the registered food importer or food distributor.

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*Clause 29 - Exemptions by Director*

6. Assistant Legal Adviser 8 sought clarification whether the notice to be published by DFEH in the Gazette under clause 29(4) to exempt a class of persons from the record-keeping requirement would be in the form of a legal notice. The Administration replied that the notice was a subsidiary legislation subject to the negative vetting of the Legislative Council.

7. Mr WONG Yung-kan asked about the criteria for exemptions by DFEH. The Administration advised that in making the decision, DFEH might, in so far as was practicable and reasonable, take into account all factors relevant to the circumstances of the case that the Director considered appropriate, including but not limited to the following -

- (a) whether the exemption would cause any undue threat to public health;
- (b) whether the applicant had mechanisms in place to ensure that the food he supplied was fit for human consumption;
- (c) past records of the applicant (e.g. previous conviction records under the Bill or the Public Health and Municipal Services Ordinance (Cap. 132));
- (d) whether there was genuine and practical difficulty in keeping the required records under Part 3 of the Bill;
- (e) whether the food in question would be used for charitable purpose; and
- (f) the type and quantity of food in question.

8. Ms Cyd HO asked whether kitchens operated by government departments, such as the Social Welfare Department, and statutory bodies, such as the Hospital Authority, would be exempted from complying with the record-keeping requirement under the Bill. The Administration replied that the Bill was intended to apply to all parties involved in the food supply chain, regardless of whether it was a governmental body or statutory body, to safeguard public health. The Administration, however, considered it necessary for DFEH to have the power to grant exemption in exceptional cases. Since the circumstances of each case might vary, it

Action

would be difficult to draw up an exhaustive list of factors which DFEH should consider in exercising the power of exemption. That said, DFEH would exercise caution and would not compromise public food safety in considering whether to grant an exemption.

9. Whilst agreeing that food banks should not be required to register under clause 6 of the Bill, Mr WONG Ting-kwong disagreed that food banks should be exempted from keeping records of the movement of food as required for retailers.

10. The Administration clarified that it would consider exempting some charitable food banks from the requirement to keep records if they had mechanisms in place to ensure that the food they supply was safe (for example, whether the staff from the organisation would check the labels for expiry dates or conditions of the food for deterioration). This was due to the difficulty in keeping records of food donated by the public as some donors might wish to remain anonymous. Requiring donors to provide personal information might unnecessarily deter some in donating and hence disrupt the operation of these food banks. In many cases, the food donated was in pre-packaged form with manufacturing details provided, which posed less of a problem for source tracing should this be necessary.

**II. Date of next meeting**

11. Members agreed to hold the next meeting on 11 January 2011 at 8:30 am.

12. There being no other business, the meeting ended at 12:53 pm.

Council Business Division 2  
Legislative Council Secretariat  
1 June 2011

**Proceedings of the meeting of the  
Bills Committee on Food Safety Bill  
on Wednesday, 29 December 2010, at 10:45 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000501	Chairman	Opening remarks  Date of next meeting	
000502 - 000722	Chairman Admin	Briefing by the Administration on its response to issues raised by members at the meeting on 14 December 2010 [LC Paper No. CB(2)666/10-11(01)]	
000723 - 005539	Chairman Admin Mr WONG Ting-kwong Mr WONG Yung-kan Ms Cyd HO Mr Tommy CHEUNG	<u>Clause-by-clause examination of the Bill</u>  <i>Clause 22 - Record of acquisition of imported food</i>  <i>Clause 23 - Capture of local aquatic products</i>  The Administration was urged to make clear to food business operators of the requirement under clause 22 of the Bill to keep and maintain records of the food they brought back to Hong Kong from abroad, such as spices, for use in food to supply to their customers.  Mr WONG Yung-kan's view that primary producers, such as fishermen and vegetable farmers, should be exempted from the record-keeping requirements under the Bill.	
005540 - 010127	Chairman Admin Mr WONG Ting-kwong	<i>Clause 24 - Record of wholesale supply of food</i>	
010128 - 012549	Admin Mr WONG Yung-kan Chairman	<i>Clause 25 - Defence for retailers</i>  Food retailers would not be required to keep and maintain records of the sale of food to the ultimate consumers. However, they would be required to keep and maintain records of acquisition of food under clauses 21 and 22 of the Bill.	
011250 - 011552	Ms Cyd HO Admin	The Administration was urged to step up publicity to ensure that all parties concerned were aware of their requirements to comply with the Bill.	
011553 - 012049	Mr WONG Ting-kwong Chairman	Mr WONG Ting-kwong's concern about the various requirements under the Bill would result in extra administration work and compliance costs for the small and medium enterprise food traders.	
012050 - 014459	Admin Ms Cyd HO Mr WONG Yung-kan Chairman Mr WONG Ting-kwong	<i>Clause 26 - Duration of keeping records</i> <i>Clause 27 - Inspection of records</i>  The Administration had consulted the food trade on the duration of record-keeping proposed in the Bill. The food trade generally agreed with the proposals.  The capture or transaction records must be kept for a period of three months (for live aquatic products and food with a shelf-life of three months or less, e.g.	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
		fresh meat) or 24 months (for food with a shelf-life over three months, e.g. canned food). The record-keeping period for different food types would be provided for general reference in a Code of Practice to be issued by DFEH under the Bill.  Mr WONG Yung-kan's view that the duration of record-keeping for perishable food items like live fish should be shorter, such as one month.	
014500 - 014627	Admin	<i>Clause 28 - Use and disclosure of records by Director</i>	
014628 - 021119	Admin ALA8 Mr WONG Yung-kan Ms Cyd HO Chairman Mr WONG Ting-kwong Mr CHEUNG Kwok-che	<i>Clause 29 - Exemptions by Director</i>	
021120 - 021202	Chairman	Closing remarks	

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