

Bills Committee on Food Safety Bill

Proposed Committee Stage Amendments to the Food Safety Bill

Purpose

This paper briefs Members on the proposed Committee Stage Amendments (CSAs) to the Food Safety Bill (the Bill). The draft CSAs are at Annex A. The mark-up version of the Bill is at Annex B for Members' reference.

Definition of “food” to exclude “articles or substances” which are regulated under the Pharmacy and Poisons Ordinance (Cap. 138) or the Chinese Medicine Ordinance (Cap. 549)

2. At the Bills Committee meeting on 18 October 2010, Members expressed concern over the possible ambiguity of the regulation over some traditional Chinese herbs which could serve as soup ingredients or snacks as well as medicine. The current definition of “food” in the Public Health and Municipal Services Ordinance (Cap. 132) and the Bill provides that food does not include “articles or substances used only as drugs” and the definition of “drug” includes “any medicine, Chinese herbal medicine or proprietary Chinese medicine for internal or external use by man”.

3. As reflected in the Secretary for Food and Health's reply to a question for the Legislative Council sitting on 4 February 2009¹, our policy intention is that food products which cannot be classified as Chinese medicine under the Cap. 549 or western medicine under Cap. 138 are regulated under Cap. 132 as general food products.” To clearly express this policy intention in the Bill, we suggest amending the definition of “food” in Clause 2 of the Bill to indicate that food does not include “*medicine as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap. 138) or Chinese herbal medicine or proprietary Chinese medicine as defined by section 2(1) of the Chinese Medicine*

¹ <http://www.info.gov.hk/gia/general/200902/04/P200902040185.htm>

Ordinance (Cap. 549)” instead of “*articles or substances used only as drugs*”.

4. We will also propose the same amendment to the definition of “food” in Cap. 132 to achieve consistency through revising Clause 64(2) of the Bill.

Deletion of the definition of “drug” in Clause 2

5. With the above proposed amendment to the definition of “food”, the definition of “drug” in Clause 2 is no longer required and can be deleted. In this regard, no consequential amendment to Cap. 132 is required as there are other provisions in Cap. 132 concerning the regulation of drugs.

Food not intended for human consumption in Clause 3

6. At the Bills Committee meeting on 1 November 2010, Members agreed with the proposed qualification to the presumption of the Bill as provided under Clause 3(3). We consider that the same qualification should apply to the corresponding presumption in Cap. 132 for consistency. As such, we propose to amend Clause 67 of the Bill to add a new subsection to Section 67 of Cap. 132 to provide that live aquatic products are presumed not to be intended for sale for human consumption, or for manufacturing products for sale for human consumption, while they are in captivity for the purposes of propagation or promotion of growth.

Amendments to the Chinese renditions

7. At the Bills Committee meeting on 16 November 2010, the Hon Wong Yuk-man presented a paper with some proposed amendments to the Chinese text of the Bill. At the Bills Committee meeting on 11 January 2011, Members also asked the Administration to consider whether the term “粗言穢語” in Clause 54(1) of the Bill should be amended to match

better with the meaning of the term “abusive language” in the English text. Our response to Hon Wong Yuk Man’s proposed amendments and Members’ comments regarding the Chinese rendition of “abusive language” in Clause 54(1) of the Bill is set out at Annex C.

8. On the basis of the discussions at previous Bills Committee meetings and our response at Annex C, we have summed up our proposed CSAs to amend the Chinese text of the Bill as below –

(i) Definition of “drink” under Clause 2(1)

By replacing

“飲品” (*drink*) 不包括不屬下列類別的水 -

with

“飲品” (*drink*) 不包括水，但以下類別的水除外 -

(ii) Amend Clause 64(1)(a) to make the consequential amendment of (i) above to the definition of “drink” in Cap. 132

By replacing

in the Chinese text, by repealing “不屬於” and substituting “不屬” ;

with

in the Chinese text, by repealing “不包括不屬於下列類別的水” and

substituting “不包括水，但以下類別的水除外”;

(iii) Definition of “wholesale” under Clause 2(1)

By replacing

“批發” (*wholesale*) 指向符合以下說明的人供應食物：該人在其經營的業務的運作中，為向第三者供應該食物或為安排向第三者供應該食物而取得該食物；

with

“批發”(wholesale)指向符合以下說明的人供應食物：該人取得該食物的目的，是在該人經營的業務的運作中，向第三者供應該食物，或是安排向第三者供應該食物；

(iv) Clause 3(1)

By replacing

本條例並不就任何並非擬供人食用的食物而適用。

with

本條例就任何非擬供人食用的食物而言，並不適用。

(v) Clause 3(3)

By replacing

在不局限第(1)或(2)款的原則下，本條例並不就在圈養狀態下繁殖或被培育成長的活水產而適用。

with

在不局限第(1)或(2)款的原則下，本條例就在圈養狀態下繁殖或培育成長的活水產而言，並不適用。

(v) Clause 30(2)(b)

By replacing

緩解任何對公眾衛生的危險的不良後果，

with

對公眾衛生所承受的危險的任何不良後果，予以緩解，

(vi) Clause 54(1)

By replacing

對其妨礙、抗拒，或對其使用粗言穢語

with

妨礙、抗拒或辱罵該人

(vii) Add a new clause to make a consequential amendment to Section 139 of Cap. 132 for the item (vi) above

Section 139 is amended by repealing “對其妨礙、抗拒，或對其使用粗言穢語” and substituting “妨礙、抗拒或辱罵該人”。

Advice Sought

9. Members are invited to comment on the proposed CSAs to be moved by the Administration.

**Food and Health Bureau
February 2011**

FOOD SAFETY BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Food and Health

<u>Clause</u>	<u>Amendment Proposed</u>	
2	(a)	In paragraph (h) of the definition of “food”, by replacing “articles or substances used only as drugs;” with “medicine as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap. 138) or Chinese herbal medicine or proprietary Chinese medicine as defined by section 2(1) of the Chinese Medicine Ordinance (Cap. 549);”
	(b)	By deleting the definition of “drug”
	(c)	In the Chinese text of the definition of “drink”, by replacing “飲品”(drink)不包括不屬下列類別的水 – with “飲品”(drink)不包括水，但以下類別的水除外 –
	(d)	In the Chinese text of the definition of “wholesale”, by replacing “批發”(wholesale)指向符合以下說明的人供應食物：該人在其經營的業務的運作中，為向第三者供應該食物或為安排向第三者供應該食物而取得該食物； with “批發”(wholesale)指向符合以下說明的人供應食物：該人取得該食物的目的，是在該人經營的業務的運作中，向第三者供應該食物，或是安排向第三者供應該食物；

3(1)		<p>In the Chinese text of the Bill, by replacing “本條例並不就任何並非擬供人食用的食物而適用。” with “本條例就任何非擬供人食用的食物而言，並不適用。”</p>
3(3)		<p>In the Chinese text of the Bill, by replacing “在不局限第(1)或(2)款的原則下，本條例並不就在圈養狀態下繁殖或被培育成長的活水產而適用。” with “在不局限第(1)或(2)款的原則下，本條例就在圈養狀態下繁殖或培育成長的活水產而言，並不適用。”</p>
30(2)(b)		<p>In the Chinese text of the Bill, by replacing “緩解任何對公眾衛生的危險的不良後果，” with “對公眾衛生所承受的危險的任何不良後果，予以緩解，”</p>
54(1)		<p>In the Chinese text of the Bill, by replacing “對其妨礙、抗拒，或對其使用粗言穢語，” with “妨礙、抗拒或辱罵該人”</p>
64(1)(a)		<p>By replacing “in the Chinese text, by repealing “不屬於” and substituting “不屬” ；” with “in the Chinese text, by repealing “不包括不屬於下列類別的水” and substituting “不包括水，但以下類別的水除外” ；”</p>
64(2)		<p>In paragraph (h) of the definition of “food”, by replacing “articles or substances used only as drugs;” with “medicine as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap. 138) or Chinese herbal medicine or proprietary Chinese medicine as defined</p>

		by section 2(1) of the Chinese Medicine Ordinance (Cap. 549);”
67		By adding a subsection (3) as follows – “Section 67 is amended by adding – “(4) The presumptions in subsection (1) do not apply to live aquatic products that are in captivity for the purposes of propagation or promotion of growth.””
69A		By adding – “ 69A. Section 139 amended (Obstruction of officers in the exercise of their duty) Section 139 is amended, in the Chinese text, by repealing “對其妨礙、抗拒，或對其使用粗言穢語” and substituting “妨礙、抗拒或辱罵該人””

FOOD SAFETY BILL

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A BILL

To

Establish a registration scheme for food importers and food distributors; to require the keeping of records by persons who acquire, capture, import or supply food; to enable food import controls to be imposed; to re-enact Part VA of the Public Health and Municipal Services Ordinance; to make consequential and related amendments to that Ordinance and another Ordinance and to provide for incidental and connected matters.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title and commencement

(1) This Ordinance may be cited as the Food Safety Ordinance.

(2) This Ordinance (except Part 3 and Division 1 of Part 2) comes into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette.

(3) Part 3 and Division 1 of Part 2 come into operation 6 months after the day on which section 7 comes into operation.

2. Interpretation

(1) In this Ordinance –

“air transshipment cargo” (航空轉運貨物) has the meaning given by section 2 of the Import and Export Ordinance (Cap. 60);

“animal” (動物) has the meaning given by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132);

“aquatic product” (水產) means fish, shellfish, amphibian or any other form of aquatic life other than a bird, mammal or reptile;

“authorized officer” (獲授權人員), in relation to a provision of this Ordinance, means –

- (a) a public officer authorized under section 39 in relation to that provision; or
- (b) a public officer authorized under section 39 in relation to this Ordinance generally;

“Director” (署長) means the Director of Food and Environmental Hygiene;

“drink” (飲品) does not include water other than –

- (a) aerated water;
- (b) distilled water;
- (c) water from natural springs, either in its natural state or with added mineral substances; and
- (d) water that is placed in a sealed container and is intended for human consumption;

~~“drug” (藥物) has the meaning given by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132);~~

“export” (出口) means to take out or cause to be taken out of Hong Kong by air, land or water;

“food” (食物) includes –

- (a) drink;
- (b) ice;
- (c) chewing gum and other products of a similar nature and use;
- (d) smokeless tobacco products; and
- (e) articles and substances used as ingredients in the preparation of food,

but does not include –

- (f) live animals or live birds, other than live aquatic products;

- (g) fodder or feeding stuffs for animals, birds or aquatic products; or
- (h) ~~articles or substances used only as drugs~~medicine as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap. 138) or Chinese herbal medicine or proprietary Chinese medicine as defined by section 2(1) of the Chinese Medicine Ordinance (Cap. 549);

“food distribution business” (食物分銷業務) means a business the principal activity of which is the supply of food in Hong Kong by wholesale;

Note: See also subsection (2).

“food distributor” (食物分銷商) means a person who carries on a food distribution business;

“food importation business” (食物進口業務) means a business that imports food (whether or not that is the principal activity of the business);

“food importer” (食物進口商) means a person who carries on a food importation business;

“food safety order” (食物安全命令) means an order made under section 30 as varied from time to time under section 30(5);

“food transport operator” (食物運輸商) means a person who transports food under a contract of carriage but at no time has any proprietary interest in the food;

“function” (職能) includes duty;

“import” (進口) means to bring or cause to be brought into Hong Kong by air, land or water;

“local aquatic product” (本地水產) means an aquatic product captured from a local fishing vessel, whether in Hong Kong waters or in other waters;

“local fishing vessel” (本地漁船) means a Class III vessel (within the meaning of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D)) that is licensed under that Regulation;

“premises” (處所) has the meaning given by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132);

“registered food distributor” (登記食物分銷商) means a person who is registered under Part 2 as a food distributor;

“registered food importer” (登記食物進口商) means a person who is registered under Part 2 as a food importer;

“Secretary” (局長) means the Secretary for Food and Health;

“smokeless tobacco product” (無煙煙草產品) has the meaning given by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132);

“supply” (供應), in relation to food, means –

- (a) to sell the food;
- (b) to offer, keep or exhibit the food for sale;
- (c) to exchange or dispose of the food for consideration; or
- (d) for commercial purposes, to give the food as a prize or to make a gift of the food;

“wholesale” (批發) means the supply of food to a person who obtains the food for the purpose of supplying or causing to supply it to a third party in the course of business carried on by that person.

(2) In determining, for the purposes of the definition of “food distribution business” in subsection (1), whether the principal activity of a business is the supply of food in Hong Kong by wholesale, regard must be had only to those activities of the business that are related to the supply of food.

3. Food not intended for human consumption

(1) This Ordinance does not apply in relation to any food that is not intended for human consumption.

(2) For the purposes of this Ordinance –

- (a) any food commonly used for human consumption is presumed, unless there is evidence to the contrary, to be intended for human consumption;

(b) any substance capable of being used in the composition or preparation of any food commonly used for human consumption that is found on any premises or in any vessel where that food is prepared is presumed, unless there is evidence to the contrary, to be intended for human consumption.

(3) Without limiting subsection (1) or (2), this Ordinance does not apply in relation to the propagation or promotion of growth of live aquatic products in captivity.

PART 2

REGISTRATION OF FOOD IMPORTERS AND DISTRIBUTORS

Division 1 – Requirement to be Registered

4. Requirement for food importers to be registered

(1) A person must not carry on a food importation business unless the person is registered under this Part as a food importer in respect of that business.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable to a fine at level 5 and to imprisonment for 6 months.

(3) Subsection (1) does not apply if –

- (a) the person is specified in column 4 of Schedule 1;
- (b) the person is exempted, or is in a class of persons that is exempted, under section 6 in respect of the business;
- (c) food is imported solely for the purpose of export, and –
 - (i) the food is air transshipment cargo; or
 - (ii) during the period between import and export, the food remains in the vessel, vehicle or aircraft in which it was imported; or

- (d) food is imported solely in the course of business of a food transport operator.

5. Requirement for food distributors to be registered

(1) A person must not carry on a food distribution business unless the person is registered under this Part as a food distributor in respect of that business.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable to a fine at level 5 and to imprisonment for 6 months.

(3) Subsection (1) does not apply if –

- (a) the person is specified in column 4 of Schedule 1;
- (b) the person is exempted, or is in a class of persons that is exempted, under section 6 in respect of the business; or
- (c) the person is registered under this Part as a food importer in respect of the business.

6. Exemptions by Director

(1) The Director may in writing exempt a person from the requirement to be registered under this Part in respect of a business.

(2) An exemption under subsection (1) may be granted subject to any conditions the Director considers appropriate.

(3) The Director may withdraw an exemption granted under subsection (1) on the ground that the conditions of the exemption have not been complied with.

(4) The Director may, by notice published in the Gazette, exempt a class of persons from the requirement to be registered under this Part in respect of a class of businesses.

Division 2 – Registration

7. Application for registration

(1) A person may apply to the Director to be registered under this Part in respect of a business –

- (a) as a food importer; or
- (b) as a food distributor.

(2) For a partnership, a partner authorized by the partnership may apply for registration on behalf of the partnership and, if registration is granted, it is to be expressed to be granted to that person on behalf of the partnership.

(3) An application for registration –

- (a) must be in the form specified by the Director;
- (b) must identify the main food categories and food classifications, as set out in Schedule 2, of all food to be imported by the business (for a food importer) or supplied by wholesale by the business (for a food distributor);
- (c) must include or be accompanied by any documents or information reasonably required by the Director for the purpose of considering the application; and
- (d) must be made in the manner specified by the Director.

(4) The Director may refuse to consider an application that does not comply with subsection (3).

8. Determination of application for registration

(1) The Director must decide whether to grant or refuse an application for registration under this Part.

(2) The Director may refuse an application if –

- (a) the Director is satisfied that the applicant has repeatedly contravened this Ordinance in the period of 12 months immediately preceding the day on which the application was made;

- (b) the applicant was previously registered under this Part in respect of the business and that registration was revoked in the period of 12 months immediately preceding the day on which the application was made; or
- (c) in the case of an application on behalf of a partnership, the registration under this Part of any partner on behalf of the partnership in respect of the business was revoked in the period of 12 months immediately preceding the day on which the application was made.

(3) The Director must give written notice to the applicant of the Director's decision on the application.

(4) If the Director refuses an application, the notice must include the reasons for refusal.

9. Registration

(1) If the Director grants an application for registration under this Part, the Director must register the applicant on payment of the registration fee specified in Schedule 3.

(2) On registration, the Director must assign a registration number and inform the applicant of that number.

(3) Unless revoked earlier, registration has effect for a period of 3 years, and may be renewed in accordance with this Part.

(4) Registration under this Part is non-transferable.

10. Conditions of registration

(1) The Director may impose any conditions on a person's registration under this Part that the Director considers appropriate.

(2) Conditions may be imposed under subsection (1) only at the time of registration or renewal of registration.

(3) A person who, without reasonable excuse, contravenes a condition of registration commits an offence and is liable to a fine at level 3 and to imprisonment for 3 months.

11. Application for renewal of registration

(1) A registered food importer or registered food distributor may apply for renewal of registration under this Part.

(2) An application for renewal of registration –

(a) must be in the form specified by the Director;

(b) must include or be accompanied by any documents or information reasonably required by the Director for the purpose of considering the application; and

(c) must be made –

(i) no earlier than 4 months before the day on which the registration is due to expire; and

(ii) in the manner specified by the Director.

(3) The Director may refuse to consider an application that does not comply with subsection (2).

(4) If an application is made in accordance with this section but the Director has not made a decision on the application before the day on which the registration is due to expire, the registration continues in effect until it is renewed under section 13 or the Director gives notice to the applicant of the Director's decision to refuse the application.

12. Determination of application for renewal

(1) The Director must decide whether to grant or refuse an application for renewal of registration under this Part.

(2) The Director may refuse an application if the Director is satisfied that the applicant has repeatedly contravened this Ordinance in the period of 12 months immediately preceding the day on which the application was made.

(3) The Director must give written notice to the applicant of the Director's decision on the application.

(4) If the Director refuses an application, the notice must include the reasons for refusal.

13. Renewal of registration

(1) If the Director grants an application for renewal of registration under this Part, the Director must renew the registration on payment of the renewal fee specified in Schedule 3.

(2) Renewal of registration –

(a) takes effect on the expiry of the current registration or at the time of renewal, whichever is later; and

(b) unless revoked earlier, has effect for a period of 3 years.

(3) Registration under this Part may be renewed more than once.

14. Revocation of registration

(1) The Director may revoke a person's registration under this Part in respect of a business at the person's request.

(2) The Director may also revoke a person's registration under this Part in respect of a business if the Director is satisfied that –

(a) the person has repeatedly contravened this Ordinance in respect of that business in the previous 12 month period;

(b) in the case of a natural person, the person has died; or

(c) in the case of a business carried on by a corporation or partnership, the corporation has been wound up or the partnership has been dissolved.

(3) The Director must not revoke a person's registration under subsection (2)(a) unless the Director –

(a) gives written notice to the person of –

(i) the Director's intention to revoke the registration;
and

- (ii) the grounds for revocation;
 - (b) permits the person to make written representations to the Director within the period specified in the notice; and
 - (c) considers any representations made within that period by the person.
- (4) If the Director revokes a person's registration under subsection (2)(a), the Director must give written notice to the person as soon as practicable, specifying –
- (a) the reasons for the revocation; and
 - (b) the day on which the revocation takes effect.
- (5) Revocation of registration takes effect –
- (a) for revocation under subsection (1), on the day determined by the Director;
 - (b) for revocation under subsection (2), on the expiry of 30 days after the day on which the decision to revoke the registration is made.

Division 3 – The Register

15. The register

- (1) The Director must keep a register of registered food importers and registered food distributors.
- (2) The register must contain, in relation to each registered food importer and registered food distributor –
- (a) the name of the food importation business or food distribution business;
 - (b) the registration number;
 - (c) any change in the information referred to in paragraphs (a) and (b); and

(d) any other information the Director considers appropriate for the implementation of this Ordinance and any change in that information.

(3) The register may be kept in a form the Director considers appropriate, including in a form other than a documentary form as long as the information recorded under subsection (2) is capable of being reproduced in a legible form.

(4) For the purpose of enabling members of the public to ascertain whether a person is registered under this Part, the Director must make the register available for public inspection.

- (5) At all reasonable times, a member of the public may –
- (a) inspect the register without charge; and
 - (b) obtain a copy of an entry in or extract from the register on payment of the fee specified in Schedule 3.

Division 4 – Appeals in relation to Registration

16. Appeals to Municipal Services Appeals Board

(1) A person who is aggrieved by a decision of the Director under this Part may, within 28 days after becoming aware of the decision, appeal to the Municipal Services Appeals Board against the decision.

(2) An appeal under this section does not suspend the decision unless the Director decides otherwise.

Division 5 – General

17. Updating of information

(1) A person who is a registered food importer or registered food distributor must give written notice to the Director of any change in the information provided to the Director in, or in relation to, the person's application for registration or renewal of registration, within 30 days after the change occurs.

- (2) A person commits an offence if the person –

- (a) without reasonable excuse, fails to give notice to the Director under subsection (1);
- (b) includes in a notice information that the person knows is false in a material particular; or
- (c) recklessly includes in a notice information that is false in a material particular.

(3) A person who commits an offence under subsection (2) is liable to a fine at level 3 and to imprisonment for 3 months.

18. Obtaining information from certain Authorities

(1) The Director may request a specified Authority to provide any specified information held by the specified Authority in relation to a specified authorization issued or granted by the specified Authority.

(2) A request under subsection (1) must be made in writing.

(3) A specified Authority must comply with a request of the Director under subsection (1).

(4) In this section –

“specified Authority” (指明當局), in relation to a specified authorization, means the person specified in column 3 of Schedule 1 opposite that authorization;

“specified authorization” (指明授權) means a licence, permit, permission or registration specified in column 2 of Schedule 1;

“specified information” (指明資料) means information that a person to whom a specified authorization is issued or granted would be required to provide to the Director in, or in relation to, an application for registration or renewal of registration under this Part if the person were required to be so registered.

19. Obtaining information from persons who are not registered

(1) The Director may require a person who carries on a food importation business or a business that supplies food in Hong Kong by wholesale but who is not registered under this Part in respect of that business to provide any information that the person would be required to provide to the Director in, or in relation to, an application for registration or renewal of registration under this Part if the person were required to be so registered.

(2) A requirement under subsection (1) must be made in writing.

(3) A person commits an offence if the person –

(a) without reasonable excuse, fails to comply with a requirement made under subsection (1); or

(b) in purported compliance with a requirement made under subsection (1) –

(i) provides information that the person knows is false in a material particular; or

(ii) recklessly provides information that is false in a material particular.

(4) A person who commits an offence under subsection (3) is liable to a fine at level 3 and to imprisonment for 3 months.

20. Providing false information in relation to registration or renewal

(1) A person commits an offence if in, or in relation to, an application for registration or renewal of registration under this Part, the person –

(a) provides information or a document that the person knows is false in a material particular; or

(b) recklessly provides information or a document that is false in a material particular.

(2) A person who commits an offence under subsection (1) is liable to a fine at level 3 and to imprisonment for 3 months.

PART 3

KEEPING RECORDS RELATING TO FOOD

Division 1 – Acquisition and Capture Records

21. Record of local acquisition of food

(1) A person who, in the course of business, acquires food in Hong Kong must record the following information about the acquisition of the food –

- (a) the date the food was acquired;
- (b) the name and contact details of the person from whom the food was acquired;
- (c) the total quantity of the food;
- (d) a description of the food.

(2) A record must be made under this section within 72 hours after the time the food was acquired.

(3) For the purposes of this section, food is acquired when the person acquiring it takes possession or control of the food.

(4) This section does not apply to a person who is exempted, or is in a class of persons that is exempted, under section 29.

(5) A person commits an offence if the person –

- (a) without reasonable excuse, fails to make a record in accordance with this section;
- (b) includes in a record information that the person knows is false in a material particular; or
- (c) recklessly includes in a record information that is false in a material particular.

(6) A person who commits an offence under subsection (5) is liable to a fine at level 3 and to imprisonment for 3 months.

22. Record of acquisition of imported food

(1) A person who, in the course of business, imports food must record the following information about the acquisition of the food –

- (a) the date the food was acquired;
- (b) the name and contact details of the person from whom the food was acquired;
- (c) the place from where the food was imported;
- (d) the total quantity of the food;
- (e) a description of the food.

(2) A record must be made under this section at or before the time the food is imported.

(3) For the purposes of this section, food is acquired when the person acquiring it takes possession or control of the food.

(4) This section does not apply –

- (a) to a person who is exempted, or is in a class of persons that is exempted, under section 29;
- (b) to an acquisition of food that is imported solely for the purpose of exporting it, if –
 - (i) the food is air transshipment cargo; or
 - (ii) during the period between import and export, the food remains in the vessel, vehicle or aircraft in which it was imported; or
- (c) to an acquisition of food that is imported solely in the course of business of a food transport operator.

(5) A person commits an offence if the person –

- (a) without reasonable excuse, fails to make a record in accordance with this section;
- (b) includes in a record information that the person knows is false in a material particular; or

(c) recklessly includes in a record information that is false in a material particular.

(6) A person who commits an offence under subsection (5) is liable to a fine at level 3 and to imprisonment for 3 months.

23. Capture of local aquatic products

(1) A person who captures local aquatic products and who, in the course of business, supplies them in Hong Kong must record the following information about the capture –

- (a) the date or period of the capture;
- (b) the common name of the local aquatic products;
- (c) the total quantity of the local aquatic products;
- (d) the area of the capture.

(2) A record must be made under this section at or before the time the supply takes place.

(3) This section does not apply to a person who is exempted, or is in a class of persons that is exempted, under section 29.

(4) A person commits an offence if the person –

- (a) without reasonable excuse, fails to make a record in accordance with this section;
- (b) includes in a record information that the person knows is false in a material particular; or
- (c) recklessly includes in a record information that is false in a material particular.

(5) A person who commits an offence under subsection (4) is liable to a fine at level 3 and to imprisonment for 3 months.

Division 2 – Supply Records

24. Record of wholesale supply of food

(1) A person who, in the course of business, supplies food in Hong Kong by wholesale must record the following information about the supply –

- (a) the date the food was supplied;
- (b) the name and contact details of the person to whom the food was supplied;
- (c) the total quantity of the food;
- (d) a description of the food.

(2) A record must be made under this section within 72 hours after the time the supply took place.

(3) This section does not apply to a person who is exempted, or is in a class of persons that is exempted, under section 29.

(4) A person commits an offence if the person –

- (a) without reasonable excuse, fails to make a record in accordance with this section;
- (b) includes in a record information that the person knows is false in a material particular; or
- (c) recklessly includes in a record information that is false in a material particular.

(5) A person who commits an offence under subsection (4) is liable to a fine at level 3 and to imprisonment for 3 months.

25. Defence for retailers

(1) It is a defence for a person charged with an offence under section 24(4)(a) in relation to a supply of food to show that –

- (a) the person's normal business is the supply of food by retail; and
- (b) it was reasonable for the person to assume that the supply was not a wholesale supply.

(2) In this section –

“retail” (零售) means the supply of food to a person who obtains it other than for the purpose of wholesale.

Division 3 – Duration of Keeping Records and their Inspection

26. Duration of keeping records

(1) A person must keep a record made under this Part (other than a record relating to live aquatic products) for the period specified in the following table –

Column 1	Column 2
Shelf-life of food	Period for which record must be kept
3 months or less	3 months after the date the food was acquired, captured or supplied
Greater than 3 months	24 months after the date the food was acquired, captured or supplied

(2) A person must keep a record made under this Part relating to live aquatic products for a period of 3 months after the date the products were acquired, captured or supplied.

(3) A person who, without reasonable excuse, fails to keep a record for the period specified in subsection (1) or (2) commits an offence and is liable to a fine at level 3 and to imprisonment for 3 months.

(4) In this section –
 “shelf-life” (保質期), in relation to food, means the period during which the food maintains its microbiological safety and sensory qualities at a specific storage temperature as determined by the supplier of the food.

27. Inspection of records

(1) A person must produce for inspection any record required to be kept by the person under this Part when required to do so by the Director or an authorized officer.

(2) The Director or authorized officer may make a copy of or take an extract from a record produced by the person.

(3) The person must provide any assistance reasonably required by the Director or authorized officer to understand or interpret a record produced by the person.

(4) A person who, without reasonable excuse, contravenes subsection (1) or (3) commits an offence and is liable to a fine at level 3 and to imprisonment for 3 months.

28. Use and disclosure of records by Director

(1) The Director may use a record produced under section 27, or any information contained in the record, for the purpose of exercising powers or performing functions under this Ordinance.

(2) The Director may disclose to the public any information contained in a record produced under section 27 if the Director is satisfied that public disclosure of the information is necessary for the protection of public health.

Division 4 – Exemptions

29. Exemptions by Director

(1) The Director may in writing exempt a person from the requirement to keep a record under this Part.

(2) An exemption under subsection (1) may be granted subject to any conditions the Director considers appropriate.

(3) The Director may withdraw an exemption granted under subsection (1) on the ground that the conditions of the exemption have not been complied with.

(4) The Director may, by notice published in the Gazette, exempt a class of persons from the requirement to keep a record under this Part.

PART 4

FOOD SAFETY ORDERS

30. Food safety orders

(1) The Director may make an order to do any one or more of the following –

- (a) prohibit the import of any food for the period specified in the order;
- (b) prohibit the supply of any food for the period specified in the order;
- (c) direct that any food supplied be recalled and specify the manner in which, and the period within which, the recall is to be conducted;
- (d) direct that any food be impounded, isolated, destroyed or otherwise disposed of and specify the manner in which, and the period within which, the impounding, isolation, destruction or disposal is to be conducted;
- (e) prohibit the carrying on of an activity in relation to any food, or permit the carrying on of any such activity in accordance with conditions specified in the order, for the period specified in the order.

(2) The Director may only make a food safety order if the Director has reasonable grounds at the time of making the order to believe that the making of the order is necessary –

- (a) to prevent or reduce a possibility of danger to public health; or
- (b) to mitigate any adverse consequence of a danger to public health.

(3) In determining whether there are reasonable grounds under subsection (2), the Director may, in so far as is practicable and reasonable, take

into account all factors relevant to the circumstances of the case that the Director considers appropriate, including but not limited to the following –

- (a) information obtained from any importer or supplier of the food;
 - (b) information, reports or testing results obtained from a public analyst;
 - (c) information (including reports, alerts, warnings and advisories) obtained from any international food or health authority or the food or health authority of any place;
 - (d) the time required for obtaining reports or testing results from a public analyst;
 - (e) characteristics of any hazard in the food, the level of the hazard in the food, consumption pattern of the food and the exposure of the general public and vulnerable groups to the food;
 - (f) any statutory requirement relating to the food;
 - (g) information on the source and extent of the hazard, in particular on whether the hazard exists throughout or in any part of the manufacture or supply chain or is limited to a particular batch of food.
- (4) A food safety order must specify –
- (a) the person, persons or class of persons intended to be bound by the order;
 - (b) particulars of the food that is the subject of the order;
 - (c) the reason for making the order and the principal factors that led to the making of the order;
 - (d) the prohibition or action required, as the case may be, and conditions (if any) under the order;
 - (e) the period referred to in subsection (1)(a), (b), (c), (d) or (e), as the case may be; and

(f) the provision under which the order is made and the consequences of a contravention of any term of the order.

(5) The Director may, in the same manner as a food safety order was made, vary or revoke the order, and section 31 applies, with the necessary modifications, in relation to the variation or revocation of a food safety order under this subsection as it applies in relation to a food safety order.

(6) A food safety order is not subsidiary legislation.

(7) In this section –

“hazard” (危害) means a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect;

“public analyst” (政府分析員) has the meaning given by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132).

31. Manner of making food safety orders, service and publication

(1) A food safety order must be in writing and may be addressed to –

- (a) a particular person or particular persons;
- (b) a class of persons; or
- (c) all persons.

(2) A food safety order addressed to a particular person or particular persons –

- (a) must be served on that person, or each of those persons; and
- (b) takes effect in relation to a person when it is served on that person.

(3) A food safety order addressed to a class of persons or all persons –

- (a) must be published in the Gazette; and
- (b) takes effect at the time specified in the order.

(4) A food safety order is binding on the person or persons to whom it is addressed.

32. Contravention of food safety orders

(1) A person bound by a food safety order who contravenes a term of the order commits an offence and is liable to a fine at level 6 and to imprisonment for 12 months.

(2) It is not a defence for the person to show that the food concerned is the subject of a licence, permit or any other form of authorization issued or granted under this or any other Ordinance.

33. Actions taken in relation to food safety orders and provision of samples

(1) The Director may serve on a person bound by a food safety order a notice requiring the person (at the time or times, or within the period, specified in the notice) to –

- (a) inform the Director of the actions taken by the person in relation to the order; or
- (b) provide to the Director samples of the food that is the subject of the order, in the quantity specified in the notice, for analysis, or for bacteriological or other examination.

(2) If a sample of food is provided to the Director in compliance with a notice under subsection (1)(b), the Director must pay to the person appearing to have the lawful custody of the food the market price of the sample or, if the market price is unknown or not readily ascertainable, a reasonable price.

(3) A person on whom a notice has been served under subsection (1) commits an offence if the person –

- (a) fails to comply with the notice; or
- (b) in purported compliance with the notice –
 - (i) provides information that the person knows is false in a material particular; or
 - (ii) recklessly provides information that is false in a material particular.

(4) A person who commits an offence under subsection (3) is liable to a fine at level 3 and to imprisonment for 3 months.

34. Power to obtain information or copies of documents

(1) If the Director has reasonable grounds to believe that a person possesses any information or document that may assist the Director in deciding whether to make, vary or revoke a food safety order, the Director may serve on the person a notice requiring the person to –

- (a) provide the information specified in the notice within the period specified in the notice; or
- (b) produce the document specified in the notice at the time and place specified in the notice and permit an authorized officer to make copies of the document at that time and place.

(2) A person on whom a notice has been served under subsection (1) commits an offence if the person –

- (a) fails to comply with the notice; or
- (b) in purported compliance with the notice –
 - (i) provides information or produces a document that the person knows is false in a material particular; or
 - (ii) recklessly provides information or produces a document that is false in a material particular.

(3) A person who commits an offence under subsection (2) is liable to a fine at level 3 and to imprisonment for 3 months.

35. Appeals to Municipal Services Appeals Board

(1) A person bound by a food safety order who is aggrieved by the order may, within 28 days after becoming bound by the order, appeal to the Municipal Services Appeals Board against the order as originally made.

(2) A person bound by a food safety order who is aggrieved by a variation of the order under section 30(5) may, within 28 days after becoming bound by the variation, appeal to the Municipal Services Appeals Board against the order as so varied.

(3) In the case of an appeal against a food safety order addressed as referred to in section 31(1)(b) or (c), if the Municipal Services Appeals Board Ordinance (Cap. 220) authorizes or requires any document to be served or any notice to be given to the persons bound by the order, the document may be served or the notice may be given by –

- (a) publication in the Gazette; or
- (b) any other means specified by the Chairman of the Municipal Services Appeals Board by notice in writing signed by the Chairman.

(4) An appeal under this section does not suspend the food safety order unless the Director decides otherwise.

36. Compensation

(1) A person bound by a food safety order may apply for an amount of compensation, recoverable as a civil debt due from the Government, that is just and equitable in all the circumstances of the case, for any loss of a kind set out in subsection (3).

(2) The person is entitled to compensation only if the person proves that –

- (a) the Director did not have reasonable grounds to make the order at the time of making the order or to vary the order at the time of a variation of the order; and
- (b) the person has suffered the relevant loss.

(3) The losses referred to in subsection (1) are the following losses arising as a direct result of compliance with the food safety order or as a direct result of the exercise of a power under section 37(1) in relation to the food safety order –

- (a) total or partial loss of the food that is the subject of the order and that –
 - (i) has been destroyed or otherwise disposed of;
 - (ii) is no longer fit for human consumption; or
 - (iii) is depreciated in value;
 - (b) costs or expenditure actually and directly incurred.
- (4) The amount of compensation recoverable –
 - (a) in relation to a loss of a kind set out in subsection (3)(a), must not exceed the market value of the food immediately before the time of making the food safety order or immediately before the time of the variation, as the case may be; and
 - (b) in relation to a loss of a kind set out in subsection (3)(b), must not exceed the actual amount of the costs or expenditure incurred.
- (5) An application under subsection (1) may be made –
 - (a) to the Small Claims Tribunal, for claims up to the maximum jurisdiction of the Tribunal; or
 - (b) to the District Court, irrespective of the amount claimed.

37. Seizure, marking or destruction of food

- (1) If it appears to an authorized officer that a term of a food safety order has been contravened by a person bound by the order in respect of any food, the officer may –
- (a) seize and remove from the person any of the food or any package in which it is contained;
 - (b) affix to any of the food that is in the person's possession a mark, seal or other designation; or
 - (c) destroy or otherwise dispose of any of the food that is in the person's possession or cause it to be destroyed or otherwise disposed of.

(2) The Director may, in a court of competent jurisdiction, recover from a person referred to in subsection (1) any reasonable costs incurred under subsection (1)(a), (b) or (c) as if those costs were a debt due to the Director from that person.

(3) Before an authorized officer destroys or otherwise disposes of any food or causes any food to be destroyed or otherwise disposed of under subsection (1)(c), the authorized officer must record a description and other details that are sufficient to identify the food.

(4) The Director must keep a record made under subsection (3) for a period of not less than 12 months.

(5) If a court convicts a person of an offence under this Part, the court may order that any one or more of the following is forfeited –

- (a) any food to which the conviction relates;
- (b) any similar food found on the person's premises or in the person's possession at the time of the commission of the offence or of the seizure of the food to which the conviction relates;
- (c) any package in which food referred to in paragraph (a) or (b) is contained.

(6) Any food or package forfeited under subsection (5) may be disposed of in the manner specified by the Director.

38. Offence to tamper with mark, seal or other designation

(1) A person commits an offence if the person, with intent to deceive another person, removes, alters or obliterates a mark, seal or other designation affixed under section 37(1)(b).

(2) A person who commits an offence under subsection (1) is liable to a fine at level 5 and to imprisonment for 6 months.

PART 5

ADMINISTRATION AND ENFORCEMENT

Division 1 – Administration

39. Authorization of public officers

(1) The Director may authorize a public officer to be an authorized officer for the purposes of this Ordinance.

(2) An authorization –

(a) must be in writing; and

(b) may be given in relation to specified provisions of this Ordinance or in relation to this Ordinance generally.

40. Delegation by Director

The Director may in writing delegate any function or power of the Director under this Ordinance to a public officer or class of public officers.

41. Confidentiality

(1) Except as provided by subsection (2), a public officer must not disclose or give to another person any information concerning a trade, business or manufacturing secret that has come to the knowledge of, or into the possession of, the public officer in the course of the public officer's exercise of powers or performance of functions under this Ordinance.

(2) A public officer may disclose or give to another person information referred to in subsection (1) –

(a) in the public officer's exercise of powers or performance of functions under this Ordinance;

(b) under an order of a court under subsection (3); or

(c) with the consent in writing of all persons who appear to the public officer, after reasonable inquiry, to be interested in the confidentiality of the information.

(3) If in any proceedings a court considers that the justice of the case so requires, the court may order the disclosure of information referred to in subsection (1).

(4) A public officer who contravenes subsection (1) commits an offence and is liable to a fine at level 5 and to imprisonment for 6 months.

(5) It is a defence for a public officer charged with an offence under this section to show that at the time of the alleged offence the defendant –

(a) believed that there was lawful authority for the defendant to disclose or give the information to the other person and the defendant had no reasonable cause to believe otherwise; or

(b) did not know and had no reasonable cause to believe that the information disclosed or given was information referred to in subsection (1).

42. Protection of public officers

(1) A public officer is not personally liable for anything done or omitted to be done by the public officer in good faith in the exercise of a power or performance of a function or purported exercise of a power or purported performance of a function under this Ordinance.

(2) The protection conferred by subsection (1) does not affect any liability of the Government for the act or omission.

Division 2 – Codes of Practice

43. Codes of practice

(1) The Director may issue any code of practice that in the Director's opinion is suitable for providing practical guidance in respect of this Ordinance.

(2) If a code of practice is issued under subsection (1), the Director must, by notice published in the Gazette –

(a) identify the code;

(b) specify the date on which the code is to take effect; and

(c) specify for which of the provisions of this Ordinance the code is issued.

(3) The Director may from time to time revise the whole or any part of a code of practice issued under subsection (1).

(4) Subsection (2) applies, with the necessary modifications, in relation to any revision made under subsection (3) as it applies in relation to the issue of a code of practice.

(5) The Director may at any time revoke a code of practice issued under subsection (1).

(6) If a code of practice is revoked under subsection (5), the Director must, by notice published in the Gazette –

(a) identify the code; and

(b) specify the date on which the revocation is to take effect.

44. Use of codes of practice in legal proceedings

(1) A failure by a person to observe a provision of a code of practice does not of itself render the person liable to any civil or criminal proceedings.

(2) However, if in any legal proceedings the court is satisfied that a provision of a code of practice is relevant to determining a matter that is in issue in the proceedings –

(a) the code of practice is admissible in evidence in the proceedings; and

(b) proof that the person contravened, or did not contravene, the provision may be relied on by any party to the proceedings as tending to establish or negate that matter.

(3) In any legal proceedings, a code of practice that appears to the court to be the subject of a notice under section 43 is to be taken to be the subject of that notice in the absence of evidence to the contrary.

(4) In this section –
 “code of practice” (實務守則) means a code of practice issued under section 43 as revised from time to time under section 43(3);

“court” (法院) means –

- (a) a court as defined by section 3 of the Interpretation and General Clauses Ordinance (Cap. 1);
- (b) a magistrate; or
- (c) the Municipal Services Appeals Board;

“legal proceedings” (法律程序) includes proceedings of the Municipal Services Appeals Board on an appeal under this Ordinance.

Division 3 – Enforcement

45. Power to obtain information

- (1) This section applies if the Director –
 - (a) has reasonable grounds to suspect that a provision of this Ordinance has been contravened; and
 - (b) has reasonable grounds to believe that a person has information or a document relating to the contravention.
- (2) The Director may serve on the person a notice requiring the person –
 - (a) to provide, within the period specified in the notice, information of a kind specified in the notice; or
 - (b) to produce, at the time and place specified in the notice, any document in the person’s possession or control of a kind specified in the notice.
- (3) Without limiting subsection (2), the kinds of information or documents that may be specified in a notice under that subsection include –
 - (a) information or documents indicating whether or not a person is a food importer or food distributor;
 - (b) information or documents relating to any transaction relating to food;
 - (c) information or documents relating to –

- (i) any information contained, or required to be contained, in an application for registration or renewal of registration under Part 2;
- (ii) any documents accompanying, or required to accompany, such an application; or
- (iii) any other information or documents provided, or required to be provided, in relation to such an application.

(4) A person on whom a notice has been served under subsection (2) commits an offence if the person –

- (a) without reasonable excuse, fails to comply with the notice;
or
- (b) in purported compliance with the notice –
 - (i) provides information or produces a document that the person knows is false in a material particular;
or
 - (ii) recklessly provides information or produces a document that is false in a material particular.

(5) A person who commits an offence under subsection (4) is liable to a fine at level 3 and to imprisonment for 3 months.

46. General power of entry

(1) An authorized officer may enter any premises or vessel used for business purposes at any time during which business is carried on, for the purpose of –

- (a) the enforcement of this Ordinance; or
- (b) the exercise of any power or the performance of any function of the authorized officer or the Director under this Ordinance.

(2) On entry, the authorized officer must produce evidence of his or her written authorization under section 39, if so required.

47. Entry under warrant

(1) A magistrate may, by warrant, authorize an authorized officer to enter, by force if necessary, any premises or vessel referred to in section 46(1) for a purpose referred to in that section if the magistrate is satisfied on sworn information in writing that –

(a) admission to the premises or vessel has been refused or refusal is apprehended; and

(b) there is reasonable ground for entry to the premises or vessel for a purpose referred to in section 46(1).

(2) A warrant must be in the form specified in Schedule 4.

(3) A warrant continues in force until the purpose for which the entry is necessary has been satisfied.

48. Assistance for authorized officers on entry

An authorized officer entering premises or a vessel under section 46 or 47 may be accompanied by any persons the authorized officer considers necessary.

49. Power of arrest in certain cases

(1) If an authorized officer reasonably suspects that a person has committed or is committing an offence under an enactment specified in Schedule 5, the authorized officer may arrest the person without a warrant.

(2) If a person forcibly resists the attempt of an authorized officer to arrest him or her or attempts to evade arrest, the authorized officer may use all reasonable means necessary to make the arrest.

(3) If an authorized officer arrests a person under this section, the authorized officer must immediately take the person to the nearest police station or hand the person over to the custody of a police officer, to be dealt with in accordance with the Police Force Ordinance (Cap. 232).

50. Disposal of certain property

(1) If the Director or an authorized officer comes into possession of any property under this Ordinance, section 102 of the Criminal Procedure Ordinance (Cap. 221) applies as if –

- (a) the Director or authorized officer were the police within the meaning of that section; and
- (b) the property were property that had come into the possession of the police in connection with an offence.

(2) Subsection (1) does not apply if the manner of disposal of the property is provided for by another provision of this Ordinance.

Division 4 – Offences

51. Offences committed by bodies corporate

(1) If an offence under this Ordinance by a body corporate is proved to have been committed with the consent or connivance of an officer of the body corporate, the officer also commits the offence and is liable to be proceeded against and punished accordingly.

(2) In this section –

“officer” (人員), of a body corporate, means –

- (a) a director, manager, secretary or other similar officer of the body corporate;
- (b) a person purporting to act in the capacity of a person referred to in paragraph (a); or
- (c) if the affairs of the body corporate are managed by its members, a member of the body corporate who is concerned in the management of the body corporate.

52. Liability of employers and principals

(1) An act done or omission made by an employee in the course of employment is to be treated for the purposes of this Ordinance as done or made by the employer, as well as by the employee.

(2) An act done or omission made by an agent of another person with the authority (whether express or implied and whether precedent or subsequent) of that other person is to be treated for the purposes of this Ordinance as done or made by that other person, as well as by the agent.

(3) In a proceeding for an offence under section 4, 5, 21(5)(a), 22(5)(a), 23(4)(a), 24(4)(a), 26(3) or 32(1) brought against a person in respect of an act or omission alleged to have been done or made by an employee or agent of the person, the person is liable to be convicted of and be punished for that offence unless the person establishes the defence described in subsection (4).

(4) If a proceeding is brought against a person by virtue of subsection (3), it is a defence for the person to show that the person exercised all due diligence to prevent the employee or agent from –

- (a) doing the act or making the omission; or
- (b) doing an act or making an omission of that description in the course of the employee's employment or the agent's authority.

53. Defence for employees

It is a defence for an employee charged with an offence under this Ordinance to show that –

- (a) the act or omission of the employee was done or made in the course of the employee's employment and under instructions given by the employer in the course of that employment; and
- (b) the employee was not, at the relevant time, in a position to make or influence a decision regarding that act or omission.

54. Obstruction of persons performing official functions etc.

(1) A person who wilfully obstructs, resists or uses abusive language to a person who is performing functions under this Ordinance, or under an order

made or warrant issued under this Ordinance, commits an offence and is liable to a fine at level 4 and to imprisonment for 6 months.

(2) Subsection (1) does not apply if the conduct constitutes an offence against another provision of this Ordinance.

55. Proceedings against several persons

(1) If proceedings under this Ordinance are competent against several persons in respect of their joint act or default, any one or more of them may be proceeded against without proceeding against the others.

(2) If an offence consists of a failure to comply with a notice served by a public officer under this Ordinance and a similar notice was served on several persons in respect of the same matter –

- (a) any one or more of the persons may be proceeded against without proceeding against the others; and
- (b) if more than one person is proceeded against, the court may treat them as if they were joint offenders.

56. Time limit for prosecutions

Despite section 26 of the Magistrates Ordinance (Cap. 227), a complaint may be made or an information laid in respect of an offence under this Ordinance within 6 months after the offence is discovered by, or comes to the notice of, the Director.

PART 6

GENERAL

57. Method of giving or serving notice

The Director may give a notice or other document to a person, or serve a notice or other document on a person, under this Ordinance –

- (a) by delivering it to the person;
- (b) by sending it by registered post addressed to the last known place of business or residence of the person; or

- (c) by leaving it with an adult occupier of that place or posting it in a prominent position at that place.

58. Amendment of Schedules

(1) The Secretary may, by notice published in the Gazette, amend Schedule 1, 3 or 4.

(2) The Director may, by notice published in the Gazette, amend Schedule 2.

(3) The Chief Executive in Council may, by notice published in the Gazette, amend Schedule 5.

59. Regulations

(1) The Secretary may make regulations –

- (a) providing for any matters that are necessary for giving full effect to the purposes and provisions of this Ordinance;
- (b) prohibiting, restricting or regulating the importation of food of a specified class; and
- (c) generally for the better carrying out of the purposes and provisions of this Ordinance.

(2) Regulations made under subsection (1) may –

- (a) make different provisions for different circumstances and provide for a particular case or class of cases;
- (b) be made so as to apply only in the circumstances prescribed by the regulations;
- (c) specify forms for the purposes of the regulations; and
- (d) prescribe offences for contraventions of the regulations, punishable by a fine, imprisonment or both.

(3) The maximum fine that may be prescribed for an offence is level 6 and the maximum imprisonment is 6 months. In addition, in the case of a continuing offence, a further fine not exceeding \$1,500 for each day during which the offence continues may be prescribed.

- (4) Regulations made under subsection (1) may –
- (a) empower a health officer to –
 - (i) permit the importation of food of a specified class subject to any conditions the health officer may specify;
 - (ii) require imported food of a specified class to be submitted or made available for inspection by a health inspector;
 - (iii) impose any conditions or issue any directions with regard to imported food of a specified class as may appear to the health officer desirable for the purpose of ensuring that the food is sound, wholesome or fit for human consumption; and
 - (b) prohibit the contravention of any condition, requirement or direction referred to in paragraph (a).

- (5) In this section –

“health inspector” (衛生督察) has the meaning given by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132);

“health officer” (衛生主任) has the meaning given by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132).

60. Transitional provision – registration before commencement of Division 1 of Part 2

Despite section 9(3), if a food importer or food distributor is registered under Part 2 before the date on which Division 1 of that Part commences, the registration has effect, unless revoked earlier, for the period ending 3 years after that date.

61. Transitional provision – orders under section 78B of the Public Health and Municipal Services Ordinance

An order in force under section 78B of the Public Health and Municipal Services Ordinance (Cap. 132) immediately before the date on which section 68 of this Ordinance commences remains in force on and after that date in accordance with its terms as if it were a food safety order and may be varied or revoked accordingly.

62. Transitional provision – record keeping requirements

(1) Section 21 applies to food that is acquired on or after the date on which that section commences.

(2) Section 22 applies to food that is imported on or after the date on which that section commences whether the food was acquired before, on or after that date.

(3) Section 23 applies to local aquatic products that are supplied on or after the date on which that section commences whether the local aquatic products were captured before, on or after that date.

(4) Section 24 applies to food that is supplied by wholesale on or after the date on which that section commences.

63. Transitional provision – ice-making factories

During the period of 6 months beginning on the date on which section 64(2) commences, a person does not commit an offence under section 35 of the Food Business Regulation (Cap. 132 sub. leg. X) for a contravention of section 31(1) of that Regulation only because the person carries on, or causes, permits or suffers to be carried on, a business that manufactures or prepares ice, otherwise than under and in accordance with a licence granted under that Regulation.

PART 7

CONSEQUENTIAL AND RELATED AMENDMENTS

Division 1 – Public Health and Municipal Services Ordinance

64. Section 2 amended (Interpretation)

(1) Section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132) is amended, in the definition of “drink” –

(a) in the Chinese text, by repealing “不屬於不包括不屬於下列類別的水” and substituting “不屬不包括水，但以下類別的水除外”;

(b) in the Chinese text, by repealing paragraph (c) and substituting –

“(c) 不論是處於天然狀態或有加入礦物質的天然泉水；及”;

(c) by repealing paragraph (d) and substituting –

“(d) water that is placed in a sealed container and is intended for human consumption;”.

(2) Section 2(1) is amended by repealing the definition of “food” and substituting –

““food” (食物) includes –

(a) drink;

(b) ice;

(c) chewing gum and other products of a similar nature and use;

(d) smokeless tobacco products; and

(e) articles and substances used as ingredients in the preparation of food,

but does not include –

- (f) live animals or live birds, other than live aquatic products;
- (g) fodder or feeding stuffs for animals, birds or aquatic products; or
- (h) ~~articles or substances used only as drugs~~medicine as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap. 138) or Chinese herbal medicine or proprietary Chinese medicine as defined by section 2(1) of the Chinese Medicine Ordinance (Cap. 549);”.

(3) Section 2(1) is amended by adding –

““aquatic product” (水產) means fish, shellfish, amphibian or any other form of aquatic life other than a bird, mammal or reptile;”.

65. Section 56 amended (Regulations as to food and drugs hygiene)

Section 56(1)(b) is amended by repealing “and ice,”.

66. Section 57 amended (Live poultry, live reptiles and live fish deemed food for purposes of regulations)

(1) Section 57 is amended, in the heading, by repealing “, **live reptiles and live fish**” and substituting “**and live reptiles**”.

(2) Section 57 is amended by repealing “, live reptiles and live fish” (wherever appearing) and substituting “and live reptiles”.

67. Section 67 amended (Presumptions)

(1) Section 67(1)(a), (b) and (c) is amended by repealing “until the contrary is proved” and substituting “unless there is evidence to the contrary”.

(2) Section 67(2) is amended by repealing “until the contrary is proved” and substituting “unless there is evidence to the contrary”.

(3) Section 67 is amended by adding –

“(4) The presumptions in subsection (1) do not apply to live aquatic products that are in captivity for the purposes of propagation or promotion of growth.”.

68. Part VA repealed (Additional powers in relation to food)

Part VA is repealed.

69. Section 124I amended (Authority may prescribe fees and charges)

(1) Section 124I(1)(e) is amended by repealing “, live reptiles and live fish” and substituting “and live reptiles”.

(2) Section 124I(1)(e)(ii)(B) is repealed.

69A. Section 139 amended (Obstruction of officers in the exercise of their duty)

Section 139 is amended, in the Chinese text, by repealing “對其妨礙、抗拒，或對其使用粗言穢語” and substituting “妨礙、抗拒或辱罵該人”.

70. Third Schedule amended (Designated Authorities)

The Third Schedule is amended by repealing the entries relating to sections 78B, 78E, 78F, 78G, 78H, 78I and 78K.

71. Sixth Schedule amended (Names in which proceedings for offences may be brought under section 131(1))

The Sixth Schedule is amended by repealing the entries relating to sections 78D, 78E, 78F and 78I.

72. Ninth Schedule amended (Penalties)

The Ninth Schedule is amended by repealing the entries relating to sections 78D(1), 78E(3), 78F(2) and 78I(3).

Division 2 – Customs and Excise Service Ordinance

73. Schedule 2 amended (Ordinances referred to in sections 17 and 17A)

Schedule 2 to the Customs and Excise Service Ordinance (Cap. 342) is amended by adding “Food Safety Ordinance (of 2010)”.

SCHEDULE 1

[ss. 4, 5, 18 & 58]

PERSONS NOT REQUIRED TO BE REGISTERED UNDER PART 2

Column 1	Column 2	Column 3	Column 4
Item	Authorization	Authority	Person not required to be registered under Part 2
1.	A permission under section 30 of the Food Business Regulation (Cap. 132 sub. leg. X)	Director of Food and Environmental Hygiene	The holder of the permission
2.	A licence under Part IV of the Food Business Regulation (Cap. 132 sub. leg. X)	Director of Food and Environmental Hygiene	The licensee
3.	A licence under Part III of the Frozen Confections Regulation (Cap. 132 sub. leg. AC)	Director of Food and Environmental Hygiene	The licensee
4.	A licence under Part II of the Hawker Regulation (Cap. 132 sub. leg. AI)	Director of Food and Environmental Hygiene	The licensee
5.	A licence under Part III of the Milk Regulation (Cap. 132 sub. leg. AQ)	Director of Food and Environmental Hygiene	The licensee
6.	A licence under the Offensive Trades Regulation (Cap. 132 sub. leg. AX)	Director of Food and Environmental Hygiene	The licensee

7.	A licence under Part II of the Slaughterhouses Regulation (Cap. 132 sub. leg. BU)	Director of Food and Environmental Hygiene	The licensee
8.	Registration as a stockholder of a reserved commodity under regulation 13 of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296 sub. leg. A)	Director-General of Trade and Industry	The registered stockholder
9.	A licence under section 8 or a permit under section 14 of the Marine Fish Culture Ordinance (Cap. 353)	Director of Agriculture, Fisheries and Conservation	The licensee or permittee
10.	A licence under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D) in respect of a Class III vessel (within the meaning of that Regulation)	Director of Marine	The certificated owner (within the meaning of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D)) of the vessel

SCHEDULE 2

[ss. 7 & 58]

MAIN FOOD CATEGORIES AND FOOD CLASSIFICATIONS

Column 1	Column 2	Column 3
Item	Main food category	Food classification
1.	Cereal and grain products (other than bakery products and snack food)	(a) Cereals, rice, wheat (b) Pasta, noodles (c) Flour, starch, substitute flour (d) Breakfast cereal and other cereal

- products
2. Fruit and vegetables (other than snack food, juices and Chinese herbs)
 - (a) Fruit
 - (b) Fruit products
 - (c) Vegetables, including mushrooms, fungi and seaweed
 - (d) Vegetable products, including mushroom, fungi and seaweed products
 - (e) Nuts and seeds
 - (f) Nut and seed products
 - (g) Beans
 - (h) Bean products
 3. Sashimi, sushi and ready-to-eat raw oysters
 - (a) Sashimi
 - (b) Sushi
 - (c) Ready-to-eat raw oysters
 4. Aquatic products (other than snack food, sashimi and ready-to-eat raw oysters)
 - (a) Wild-caught coral reef fish (live and unprocessed)
 - (b) Other marine fish (live and unprocessed)
 - (c) Freshwater fish (live and unprocessed)
 - (d) Crustaceans, molluscs (live and unprocessed)
 - (e) Puffer fish (processed and unprocessed)
 - (f) Other edible aquatic products (live and unprocessed)
 - (g) Dried seafood
 - (h) Other processed aquatic products

- | | | |
|-----|---|--|
| 5. | Meat and meat products,
(other than snack food and
sashimi) | <ul style="list-style-type: none"> (a) Frozen, chilled, fresh game
(unprocessed) (b) Frozen, chilled, fresh meat
(unprocessed) (c) Frozen, chilled, fresh poultry
(unprocessed) (d) Processed game products (e) Processed meat products (f) Processed poultry products |
| 6. | Eggs and egg products | <ul style="list-style-type: none"> (a) Chicken eggs (b) Duck eggs, goose eggs, quail eggs
and other poultry eggs (c) Egg products |
| 7. | Milk and dairy products
(other than infant/follow-
up/growing-up formula) | <ul style="list-style-type: none"> (a) Milk and milk beverages (b) Cream, cheese, butter (c) Condensed milk, evaporated milk,
filled milk products (d) Dried milk (e) Other dairy products |
| 8. | Frozen confections | Ice cream, popsicles, frozen yogurt and
others |
| 9. | Fat and oil | <ul style="list-style-type: none"> (a) Animal fat and oil, vegetable fat and
oil, other fat and oil (b) Salad dressing |
| 10. | Beverages (other than milk
and dairy products) | <ul style="list-style-type: none"> (a) Soft drink and other carbonated
drinks (b) Fresh fruit and vegetable juice, fruit
and vegetable juice drink (c) Coffee beans, tea leaves, instant drink |

- | | | |
|-----|---|--|
| | | mixes |
| | | (d) Bottled water and edible ice |
| | | (e) Other non-alcoholic beverages |
| | | (f) Beer and ales |
| | | (g) Other alcoholic beverages |
| 11. | Sugars and sweets | (a) Sugars, frostings, toppings, dessert sauces |
| | | (b) Sweeteners |
| | | (c) Honey, molasses, syrups |
| | | (d) Jams/preserves, jellies |
| | | (e) Candy, chocolate, chewing gum |
| 12. | Dim sum, Chinese pastry, mixed dishes, desserts, bakery products and snack food (other than candy, chocolate and chewing gum) | (a) Dim sum, Chinese pastry |
| | | (b) Mixed dishes |
| | | (c) Desserts, bakery products |
| | | (d) Snack food (puffer fish products) |
| | | (e) Snack food (others) |
| 13. | Salts, condiments and sauces, herbs and spices | (a) Vinegar, gravy, savoury sauces, including soya sauces, oyster sauces |
| | | (b) Salts, condiments |
| | | (c) Herbs and spices |
| 14. | Chinese herbs and their products | (a) Chinese herbs |
| | | (b) Chinese herb products |
| 15. | Infant/follow-up/growing-up formula and baby food | (a) Infant/follow-up/growing-up formula (for babies up to 36 months) |
| | | (b) Other baby food |
| 16. | Miscellaneous | Miscellaneous |

SCHEDULE 3

[ss. 9, 13, 15 &
58]

FEES

Column1 Item	Column 2 Section	Column 3 Description	Column 4 Fee
1.	9(1)	Fee for registration under Part 2	\$195
2.	13(1)	Fee for renewal of registration under Part 2	\$180
3.	15(5)(b)	Fee for copy of entry in or extract from register	\$1 per page (copies made on both sides of a sheet count as 2 pages)

SCHEDULE 4

[ss. 47 & 58]

FORM OF WARRANT

FOOD SAFETY ORDINANCE

(of 2010)

(section 47(2))

Warrant to enter [premises/vessel*]

WHEREAS [*insert name of applicant*] has applied to me, [*insert name of magistrate*], a magistrate, to authorize [*him/her**] to enter [*insert description of premises or vessel*], and I am satisfied by information on oath that there is reasonable ground for entry to [*those premises/that vessel**] and that [*insert ground on which warrant is issued*].

Now, therefore, I authorize [*insert name of applicant*] to enter [*those premises/that vessel**], by force if necessary, with any assistants [*he/she**] may require, and there execute [*his/her**] duties under the Food Safety Ordinance.

Dated:

(Signed)
Magistrate

* Strike out as applicable.

SCHEDULE 5

[ss. 49 & 58]

ARRESTABLE OFFENCES

Section 4

Section 5

Section 54

Any regulation made under section 59

Explanatory Memorandum

The main object of this Bill is to establish a registration scheme for food importers and food distributors; to require the keeping of records by persons who acquire, capture, import or supply food; to enable food import controls to be imposed and to re-enact Part VA of the Public Health and Municipal Services Ordinance (Cap. 132) (“Cap. 132”).

2. Clause 1 sets out the short title and provides for commencement. Commencement (except for Part 3 and Division 1 of Part 2) is by commencement notice of the Secretary for Food and Health. Part 3 (the record-keeping requirements) and Division 1 of Part 2 (the requirement for food importers and food distributors to be registered) commence 6 months after clause 7 (application for registration).

3. Clause 2 defines certain terms used in the Bill. A number of terms are defined by reference to definitions contained in Cap. 132.

4. Clause 3 states that the Ordinance does not apply in relation to food that is not intended for human consumption, and creates presumptions in determining whether food is intended for human consumption.

5. Part 2 provides for the registration of food importers and food distributors.

6. Clause 4 requires a person carrying on a food importation business to be registered as a food importer. A food importation business is a business that imports food into Hong Kong. Contravention, without reasonable excuse, of the requirement is an offence with a maximum penalty of a fine at level 5 (\$50,000) and imprisonment for 6 months. There are a number of exceptions to the requirement to be registered: persons who hold food-related licences or other authorizations specified in Schedule 1, persons who are exempted by the Director of Food and Environmental Hygiene (“the Director”) under clause 6, persons carrying on a business that tranships food through Hong Kong and food transport operators.

7. Clause 5 requires a person carrying on a food distribution business to be registered as a food distributor. A food distribution business is a business the principal activity of which is the supply of food in Hong Kong by wholesale. Contravention, without reasonable excuse, of the requirement is an offence with a maximum penalty of a fine at level 5 (\$50,000) and imprisonment for 6 months. There are a number of exceptions to the requirement to be registered: persons who hold food-related licences or other authorizations specified in Schedule 1, persons who are exempted by the Director under clause 6 and persons who are registered as a food importer. Thus, if a food distribution business also imports food, the person carrying on the business is required to be registered as a food importer rather than as a food distributor.

8. Clause 6 empowers the Director to exempt particular persons or classes of persons from the requirement to register as food importers or food distributors.

9. Clause 7 enables persons to apply for registration and sets out the requirements for an application.

10. Clause 8 provides for the Director to decide an application for registration and sets out the grounds for refusal. Registration may be refused if the Director is satisfied that the applicant has repeatedly contravened the Ordinance in the previous 12 months or the applicant’s former registration was revoked in the

previous 12 months. The Director must notify the applicant of the result of the application and give reasons if the application is refused.

11. Clause 9 provides for registration, on payment of the registration fee, if the Director grants the application. The Director must assign a registration number and inform the applicant. Registration has effect for 3 years and is non-transferable. The registration fee is specified in Schedule 3.

12. Clause 10 empowers the Director to impose conditions on registration. Conditions may be imposed only at the time of registration or renewal of registration. Contravention, without reasonable excuse, of a condition is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months.

13. Clause 11 enables persons to apply for renewal of registration and sets out the requirements for an application. If the Director has not made a decision on a renewal application before the registration expires, the registration continues in effect until the registration is renewed or the Director gives notice of refusal.

14. Clause 12 provides for the Director to decide an application for renewal of registration and sets out the grounds for refusal. Renewal may be refused if the Director is satisfied that the applicant has repeatedly contravened the Ordinance in the previous 12 months. The Director must notify the applicant of the result of the application and give reasons if the application is refused.

15. Clause 13 provides for renewal of registration, on payment of the renewal fee, if the Director grants the application for renewal. Renewal has effect for 3 years and registration may be renewed more than once. The renewal fee is specified in Schedule 3.

16. Clause 14 allows the Director to revoke registration in certain circumstances. Registration may be revoked at the request of the registered person. It may also be revoked if the Director is satisfied that the registered person has repeatedly contravened the Ordinance in the previous 12 months or has died or, in the case of a corporation or partnership, the corporation has been wound up or the partnership has been dissolved.

17. Clause 15 requires the Director to keep a register of registered food importers and registered food distributors and sets out the matters to be included in the register. The clause provides for free public inspection of the register and for copies or extracts to be obtainable for a fee specified in Schedule 3.

18. Clause 16 provides for appeals against decisions of the Director under Part 2 to be made to the Municipal Services Appeals Board. Provisions governing appeals are set out in the Municipal Services Appeals Board Ordinance (Cap. 220).

19. Clause 17 requires a registered food importer or registered food distributor to give written notice to the Director of any change in the information provided to the Director in, or in relation to, an application for registration or renewal of registration. The notice must be given within 30 days after the change occurs. Failure, without reasonable excuse, to give notice, or knowingly or recklessly including false information in a notice, is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months.

20. Clause 18 empowers the Director to obtain certain information from other licensing authorities about licences, permits or other authorizations that those authorities have issued. The licensing authorities and the licences, permits or other authorizations are specified in Schedule 1.

21. Clause 19 empowers the Director to require a person who carries on a business that imports food or that supplies food in Hong Kong by wholesale but who is not registered as a food importer or food distributor to provide information that the person would be required to provide to the Director if the person were required to be registered. Failure, without reasonable excuse, to provide the information, or knowingly or recklessly providing false information, is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months.

22. Clause 20 creates an offence for a person knowingly or recklessly to provide false information in, or in relation to, an application for registration or

renewal of registration. The offence carries a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months.

23. Part 3 requires records to be kept of the acquisition and wholesale supply of food, and of the capture of local aquatic products. The Part introduces what is known as the “one-step-backward, one-step-forward” approach.

24. Clause 21 requires a person who, in the course of business, acquires food in Hong Kong to record certain information about the acquisition. The record must be made within 72 hours after the time of the acquisition, which for the purposes of the clause is the time the person takes possession or control of the food. Failure, without reasonable excuse, to make a record, or knowingly or recklessly including false information in a record, is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months. Under clause 29 the Director may exempt persons or classes of persons from the requirement to make a record.

25. Clause 22 requires a person who, in the course of business, imports food to record certain information about the acquisition of the food. The record must be made at or before the time the food is imported. Failure, without reasonable excuse, to make a record, or knowingly or recklessly including false information in a record, is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months. There are a number of exceptions to the requirement to make records under the clause: food transport operators, persons who import food for transshipment and persons or classes of persons who are exempted by the Director under clause 29.

26. Clause 23 requires a person who captures local aquatic products and who, in the course of business, supplies them in Hong Kong to record certain information about the capture. The record must be made at or before the time the supply takes place. Failure, without reasonable excuse, to make a record, or knowingly or recklessly including false information in a record, is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3

months. Under clause 29 the Director may exempt persons or classes of persons from the requirement to make a record.

27. Clause 24 requires a person who, in the course of business, supplies food in Hong Kong by wholesale to record certain information about the supply. The record must be made within 72 hours after the time the supply took place. Failure, without reasonable excuse, to make a record, or knowingly or recklessly including false information in a record, is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months. Under clause 29 the Director may exempt persons or classes of persons from the requirement to make a record.

28. Clause 25 provides a defence to a charge of failing to make a record under clause 24 for a person to show that their normal business is the supply of food by retail and it was reasonable to assume that the supply was not a wholesale supply.

29. Clause 26 sets out the required period for retention of records made under clause 21, 22, 23 or 24. Except for live aquatic products, the required period depends on the shelf-life of the food. For food with a shelf-life of 3 months or less, the records must be kept for 3 months after the date of acquisition, capture or supply. For food with a shelf-life greater than 3 months, the records must be kept for 24 months after the date of acquisition, capture or supply. Records relating to live aquatic products must be kept for 3 months after the date of acquisition, capture or supply.

30. Clause 27 allows the Director or an authorized officer to require a person to produce for inspection any record required to be kept under Part 3. The Director or authorized officer may also require the person to provide reasonable assistance to enable the Director or authorized officer to understand or interpret a record. Contravention, without reasonable excuse, of a requirement under the clause is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months.

31. Clause 28 permits the Director to use a record produced under clause 27, or any information contained in it, for the purpose of exercising powers or

performing functions under the Ordinance. The Director may also disclose to the public any such information if the Director is satisfied that public disclosure is necessary for the protection of public health.

32. Clause 29 empowers the Director to exempt particular persons or classes of persons from the requirement to keep records under Part 3.

33. Part 4 provides for the making and enforcement of food safety orders. The Part substantially re-enacts Part VA of Cap. 132, which was inserted into that Ordinance by the Public Health and Municipal Services (Amendment) Ordinance 2009 (3 of 2009). A number of the provisions in Part VA of Cap. 132 have been transferred to Part 5 as they will apply more generally.

34. Clause 30 re-enacts section 78B of Cap. 132. The clause empowers the Director to make food safety orders (the equivalent of section 78B orders under Cap. 132). The Director may only make a food safety order if it is necessary to prevent or reduce a possibility of danger to public health or to mitigate any adverse consequence of a danger to public health. The orders may –

- (a) prohibit the import of any food;
- (b) prohibit the supply of any food;
- (c) direct that any food be recalled;
- (d) direct that any food be impounded, isolated, destroyed or otherwise disposed of; and
- (e) prohibit the carrying on of an activity in relation to any food, or permit the carrying on of any such activity in accordance with conditions.

35. Clause 31 re-enacts section 78C of Cap. 132. The clause provides for the service of food safety orders addressed to particular persons and publication of food safety orders addressed to a class of persons or to all persons.

36. Clause 32 re-enacts section 78D of Cap. 132. The clause creates an offence for the contravention of a food safety order with a maximum penalty of a fine at level 6 (\$100,000) and imprisonment for 12 months. The defence in

section 78D(3) of Cap. 132 for employees is not included here as it is included in clause 53, which will apply generally to offences under the Ordinance.

37. Clause 33 re-enacts section 78E of Cap. 132. The clause empowers the Director, by notice, to require a person bound by a food safety order to inform the Director of the actions taken in relation to the order or provide samples. Failure to comply with a notice, or knowingly or recklessly providing false information, is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months.

38. Clause 34 re-enacts section 78F of Cap. 132. The clause empowers the Director, by notice, to obtain information or copies of documents before making, varying or revoking food safety orders. Failure to comply with a notice, or knowingly or recklessly providing false information or documents, is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months.

39. Clause 35 re-enacts section 78G of Cap. 132. The clause provides for appeals against food safety orders to be made to the Municipal Services Appeals Board. Provisions governing appeals are set out in the Municipal Services Appeals Board Ordinance (Cap. 220).

40. Clause 36 re-enacts section 78H of Cap. 132. The clause provides for compensation to be payable to a person bound by a food safety order in certain circumstances and specifies the maximum amount of compensation recoverable.

41. Clause 37 re-enacts section 78I of Cap. 132 (except section 78I(3), which is contained in clause 38). The clause provides for the seizure, marking or destruction of food that is the subject of a food safety order if a term of the order has been contravened.

42. Clause 38 re-enacts section 78I(3) of Cap. 132. The clause creates an offence for removal, alteration or obliteration of a mark, seal or other designation affixed to food under clause 37. The maximum penalty for the offence is a fine at level 5 (\$50,000) and imprisonment for 6 months.

43. Part 5 contains provisions for administration and enforcement.

44. Clause 39 empowers the Director to authorize public officers to be authorized officers for the purposes of the Ordinance. They may be authorized in relation to specified provisions or in relation to the Ordinance generally.

45. Clause 40 empowers the Director to delegate functions or powers to a public officer or class of public officers.

46. Clause 41 imposes a duty of confidentiality on public officers in relation to certain information that has come to their knowledge or into their possession under the Ordinance. Any such information may be disclosed or given to another person only in the circumstances set out in the clause.

47. Clause 42 protects public officers from liability for things done or omitted in good faith while exercising powers or performing functions under the Ordinance. However, any liability of the Government is not affected.

48. Clause 43 empowers the Director to issue codes of practice for providing practical guidance in respect of the Ordinance. The power is similar to that in section 78K of Cap. 132.

49. Clause 44 provides for the status of codes of practice issued under clause 43 and for their use in legal proceedings. The clause is similar to section 78L of Cap. 132.

50. Clause 45 empowers the Director, by notice, to require the provision of certain information if the Director has reasonable grounds to suspect that a provision has been contravened and reasonable grounds to believe that a person has information or a document relating to the contravention. Failure, without reasonable excuse, to comply with a notice, or knowingly or recklessly providing false information or producing a false document, is an offence with a maximum penalty of a fine at level 3 (\$10,000) and imprisonment for 3 months.

51. Clause 46 gives authorized officers a power of entry to any premises or vessel used for business purposes. The power may be exercised for the purpose of enforcement or the exercise of powers or performance of functions under the Ordinance.

52. Clause 47 empowers a magistrate to issue a warrant for an authorized officer to enter any premises or vessel referred to in clause 46(1) if admission has been refused (or refusal is apprehended) and there is reasonable ground for entry.

53. Clause 48 permits an authorized officer entering premises or a vessel under clause 46 or 47 to be accompanied by assistants if necessary.

54. Clause 49 gives an authorized officer the power to arrest a person reasonably suspected of committing an offence under an enactment specified in Schedule 5.

55. Clause 50 provides for the disposal of property that comes into the possession of the Director or an authorized officer under the Ordinance, by applying section 102 of the Criminal Procedure Ordinance (Cap. 221). That section provides for a court to make an order as to the disposal of the property.

56. Clause 51 provides for the liability of an officer of a body corporate for offences committed by the body corporate with the officer's consent or connivance. In those circumstances, both the officer and the body corporate are liable to be proceeded against.

57. Clause 52 provides for the liability of employers and principals for the acts and omissions of their employees or agents, and imposes criminal liability on employers and principals in respect of specified offences for the acts and omissions of their employees or agents. In those circumstances, employers and principals have a due diligence defence. The clause is modelled on section 78J of Cap. 132.

58. Clause 53 provides a defence for employees charged with an offence if they were acting under the employer's instructions and were not in a position of influence. The clause is modelled on section 78D(3) of Cap. 132, but applies to all offences under the Ordinance.

59. Clause 54 creates an offence for a person to wilfully obstruct, resist or use abusive language to a person who is performing functions under the Ordinance,

with a maximum penalty of a fine at level 4 (\$25,000) and imprisonment for 6 months. The clause is modelled on section 139 of Cap. 132.

60. Clause 55 provides for liability in situations where persons have acted jointly or where a notice has been served on several persons in respect of the same matter. The clause is modelled on section 141 of Cap. 132.

61. Clause 56 allows proceedings for an offence to be commenced within 6 months after the offence is discovered by, or comes to the notice of, the Director. Otherwise, section 26 of the Magistrates Ordinance (Cap. 227) would require proceedings to be commenced within 6 months after the offence was committed.

62. Part 6 contains general provisions.

63. Clause 57 sets out methods the Director may use to give or serve notices under the Ordinance.

64. Clause 58 empowers the Secretary for Food and Health to amend Schedule 1, 3 or 4, the Director to amend Schedule 2 and the Chief Executive in Council to amend Schedule 5.

65. Clause 59 empowers the Secretary for Food and Health to make regulations. Regulations may be made for any matters that are necessary for giving full effect to the purposes and provisions of the Ordinance. In particular, regulations may be made prohibiting, restricting or regulating the importation of food of a specified class. The regulations may prescribe offences punishable by a fine not exceeding level 6 (\$100,000) or imprisonment for a period not exceeding 6 months (or both) and, for a continuing offence, a daily fine not exceeding \$1,500.

66. Clause 60 provides that the registration of a food importer or food distributor registered before the commencement of Division 1 of Part 2 (which is 6 months after the commencement of the provisions allowing for registration) has effect, unless revoked earlier, until 3 years after the commencement of that Division. Otherwise, according to clause 9(3), registration of those food importers and food distributors would have effect for 3 years after the date of registration.

67. Clause 61 provides for the continuation of a section 78B order made under Part VA of Cap. 132 that is in force immediately before the re-enactment of that Part in Part 4. The order remains in force as if it were a food safety order made under Part 4.

68. Clause 62 clarifies the application of the record-keeping requirements in clauses 21, 22, 23 and 24.

69. Clause 63 gives factories that manufacture or prepare ice a grace period of 6 months to obtain a licence under section 31(1) of the Food Business Regulation (Cap. 132 sub. leg. X). As ice will be included as food by the amendment made by clause 64(2), those factories will be food factories and, therefore, will be required to be licensed under that Regulation.

70. Part 7 contains consequential and related amendments to other Ordinances.

71. Clause 64 amends section 2 of Cap. 132, which is an interpretation section. The clause makes a minor amendment to the definition of “drink” to align that definition with the definition of “drink” in clause 2. The clause substitutes the definition of “food” to align it with the definition of “food” in clause 2. This amendment has the effect of including ice and live aquatic products as food for the purposes of Cap. 132. Finally, the clause adds a definition of “aquatic product” which is the same as the definition of that term in clause 2.

72. Clause 65 amends section 56(1)(b) of Cap. 132, which empowers the making of regulations as to food and drugs hygiene. The amendment repeals a reference to ice, which is no longer necessary now that food includes ice (see paragraph 71 above).

73. Clause 66 amends section 57 of Cap. 132, which is a deeming provision for the purposes of regulations under section 55 or 56 of Cap. 132. The effect of the amendments is to remove references to live fish. Since live fish are live aquatic products, which are now included in the definition of “food”, there is no longer a need for section 57 to deem them to be food.

74. Clause 67 amends section 67 of Cap. 132, which contains a number of presumptions for determining whether food is intended for human consumption.

The effect of the amendment is to clarify that the evidential burden of proof, rather than the legal burden of proof, rests on a person wishing to rebut the presumptions. This is consistent with clause 3.

75. Clause 68 repeals Part VA of Cap. 132 as a consequence of the re-enactment of that Part in Part 4.

76. Clause 69 amends section 124I of Cap. 132, which empowers the making of regulations providing for fees and charges. The effect of the amendments is to remove references to live fish and ice. Since live fish and ice are now included in the definition of “food”, there is no longer a need to refer to them separately in section 124I.

77. Clauses 70, 71 and 72 amend the Third, Sixth and Ninth Schedules to Cap. 132 to remove references to sections of Cap. 132 that are repealed as a consequence of the re-enactment of Part VA of Cap. 132 in Part 4.

78. Clause 73 amends Schedule 2 to the Customs and Excise Service Ordinance (Cap. 342), which lists a number of Ordinances for the purposes of sections 17 and 17A of Cap. 342. Those sections give customs and excise officers the power to arrest a person reasonably suspected of having committed an offence against Cap. 342 or an Ordinance listed in Schedule 2 to Cap. 342. Section 17B of Cap. 342 empowers the officers to enter and search premises for the purpose of arrest. The amendment adds the Food Safety Ordinance to the list.

79. Schedule 1 specifies categories of persons who are not required to be registered as food importers or food distributors and specifies authorities from whom the Director may obtain information under clause 18.

80. Schedule 2 sets out the main food categories and the food classifications that need to be identified in an application for registration as a food importer or food distributor.

81. Schedule 3 sets out fees for registration or renewal of registration as a food importer or food distributor and for copies of or extracts from the register of food importers and food distributors.

82. Schedule 4 sets out the form of a warrant to enter premises or a vessel that may be issued by a magistrate under clause 47.

83. Schedule 5 specifies the enactments creating offences for which an authorized officer may arrest a person under clause 49.

Members' Proposed Amendments to the Chinese text of the Food Safety Bill and the Administration's Response

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
1(3)	第3部及第2部第1分部於自第7條實施當日起計的6個月屆滿之時後起實施。	Part 3 and Division 1 of Part 2 come into operation 6 months after the day on which section 7 comes into operation.	For easy comprehension	The suggested version does not specify when the 6 months period starts to run. It could be misinterpreted as commencing <i>at any time</i> after the 6 months period expires. Therefore we prefer the current draft as it is.	Not applicable.
2(1)	“飲品”(drink)不包括不屬下列類別的水	“drink”(飲品) does not include water other than –	Members commented that the Chinese text of the definition of “drink” in Clause 2(1), being double negative, is difficult to comprehend.	While the current wording was modeled on that in the Public Health and Municipal Services Ordinance (Cap. 132) for the sake of consistency, we consider that the Chinese text of the definition of “drink” can be improved. We have considered the alternative version suggested by the Assistant Legal Advisor and proposed that the provision could be amended to read – “飲品 (drink)不包括水，但以下類別的水除外 –”。 Members agreed with the above alternative wording at the meeting of the Bills Committee on 16 November 2010.	“飲品 (drink)不包括水，但以下類別的水除外 –”。

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
2(1)	<p>“批發”(wholesale)指向符合以下說明的人供應食物：該人在其經營的業務的運作中，<u>取得該食物的目的為向第三者供應該食物或為安排向第三者供應該食物而取得該食物</u>；</p>	<p>“wholesale” (批發) means the supply of food to a person who obtains the food for the purpose of supplying or causing to supply it to a third party in the course of business carried on by that person.</p>	<p>For easy comprehension</p>	<p>The suggested version does not reflect the meaning that the supply or causing to supply of food is in the course of the business carried on by the relevant person.</p> <p>We consider that the Chinese text of the definition of “wholesale” can be improved and suggest the following version:</p> <p>“ “批發” (wholesale)指向符合以下說明的人供應食物：該人取得該食物的目的，是在該人經營的業務的運作中，向第三者供應該食物，或是安排向第三者供應該食物；”</p>	<p>“ “批發” (wholesale)指向符合以下說明的人供應食物：該人取得該食物的目的，是在該人經營的業務的運作中，向第三者供應該食物，或是安排向第三者供應該食物；”</p>

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
3(1)	本條例並不就適用於任何並非擬供人食用的食物而適用。	This Ordinance does not apply in relation to any food that is not intended for human consumption.	The phrase “不就……而適用” is not in line with the principle of easy comprehension, and should be amended as “不適用於……”.	<p>It has been suggested to render “does not apply in relation to...” as “不適用於...”. However, “不適用於...” is often adopted for “does not apply to” in Hong Kong legislation. “...does not apply in relation to” is often rendered as “不就...而適用” or “就...而言，並不適用”. In statutory interpretation, there is a presumption that different words are to be given different meanings. A variation in the term used is taken to denote a different meaning. Therefore in the Chinese text, where possible, we strive to adopt the same wording for the same English expression within a piece of legislation and among different pieces of legislation so as to avoid any possible argument that the meaning of the Chinese text is different from that of the English text.</p> <p>For Clause 3(1), we suggest the following alternative version for members' consideration:</p> <p>“本條例就任何非擬供人食用的食物而言，並不適用。”</p>	“本條例就任何非擬供人食用的食物而言，並不適用。”

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
3(3)	在不局限第(1)或(2)款的原則下，本條例並不就適用於在圈養狀態下繁殖或被培育 <u>生長</u> 的活水產而適用。	Without limiting subsection (1) or (2), this Ordinance does not apply in relation to the propagation or promotion of growth of live aquatic products in captivity.	<p>The Food Safety Bill does not apply to in relation to the propagation or promotion of growth of live aquatic products in captivity, such as fish fries or oyster spats as these live aquatic products are not intended for human consumption at that time.</p> <p>The word “被” in “被培育生長” should be omitted in Chinese grammar. “成長” has the meaning of completion of growth, which cannot represent young animals like fish fries and oyster spats.</p>	<p>We agree that the word “被” can be omitted. However, we do not agree that “成長” means “完成生長過程”. It is common in the Chinese language to say “不斷成長” and “成長期間”. Therefore we consider that “成長” is an appropriate Chinese rendition for “growth”.</p> <p>We have explained our practice in respect of the Chinese rendition for the expression “does not apply in relation to” in our response to the proposed amendment to Clause 3(1). We suggest the following alternative version for Members' consideration:</p> <p>“在不局限第(1)或(2)款的原則下，本條例就在圈養狀態下繁殖或培育成長的活水產而言，並不適用。”</p>	“在不局限第(1)或(2)款的原則下，本條例就在圈養狀態下繁殖或培育成長的活水產而言，並不適用。”

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
			<p>It is not in line with the meaning of the context. “生長” is more appropriate as it means the on-going process of development. Thus “被培育成長” should be translated as “培育生長”.</p> <p>Besides, “不就……而適用” is not easy to comprehend.</p>		

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
23(1)(a)	該項捕撈的日期或時 期	the date or period of the capture	<p>According to Chinese dictionaries, “期間” means within a certain period of time, for example, during the meeting (開會期間), and is seldom used as an independent noun. “時期” means a longer period of time (often referred to as a period with a certain feature), for example, childhood period (孩提時期).</p> <p>It would be more appropriate for “period” to be rendered as “時期”.</p>	<p>It has been suggested to adopt “時期” for “period” in Clause 23(1)(a). According to the reasons for the proposed amendment to Clause 23(1)(a) by Members, it was stated that “時期” denotes a longer period of time with a certain feature. We agree with this dictionary meaning and consider that “時期” is often used in connection with a period of time in history which has a certain feature, for example, “冰河時期” (Ice Age), “日佔時期” (Japanese occupation) and “文藝復興時期” (Renaissance).</p> <p>Under Clause 23(1)(a), a food distributor must record the date or period of the capture of the local aquatic products. As explained in the LC Paper No. CB(2)20/10-11(01), we understand from our discussion with the fisherman associations that it might be difficult for fishermen to specify the exact date of their capture since a fishing trip may take more than one day. Thus, we allow them to record the period instead of an exact date when the capture is made. The Chinese rendition of the term “period” must be able to encompass a period of time in such context.</p>	Not applicable.

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
				Furthermore, as mentioned in LC Paper No. CB(2)20/10-11(01), the term “期間” is commonly adopted for the term “period” in other legislative provisions. Therefore, we consider that “期間” is an appropriate term for this purpose.	
26(1)	<p>獲取、捕撈或供應有關食物後 3 個月的期間</p> <p>獲取、捕撈或供應有關食物後 24 個月的期間</p>	<p>3 months after the date the food was acquired, captured or supplied</p> <p>24 months after the date the food was acquired, captured or supplied</p>	By deleting the words “的期間”, the context will be clearer and more comprehensible, and more consistent with the meaning of the English text.	The suggested version could be misinterpreted as “the day on which the 3 months period expires”. For example, “出生後一個月” could mean the day when the baby is one month old. Furthermore, we disagree that just because there is the term “期間” in the Chinese text but not the word “period” in the English text, the two versions are inconsistent. We consider that the current Chinese text is appropriate as it delivers the same meaning as the English text.	Not applicable.

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
30(1)	署長可作出命令， 飭令 作出處理任何一項或多於一項以下事情 –	The Director may make an order to do any one or more of the following –	The meanings of “命令” and “飭令” are duplicated. The phrase “作出……事情” should be replaced with “處理……事情”, so as to improve the readability.	The suggested version means the Director deals with or arranges to do the things in paragraphs (a) to (e) by making a food safety order. However, the subject of a food safety order is actually a person or a class of person (Clause 30(4)(a)). It is those persons who are bound by the food safety order and must act according to the order. Therefore, we consider the current text as a more appropriate version.	Not applicable.
30(1)(e)	禁止在該命令指明的期間內進行關於任何食物的某項活動，或准許在該期間內按照該命令指明的條件，進行該等活動。	Prohibit the carrying on of an activity in relation to any food, or permit the carrying on of any such activity in accordance with conditions specified in the order, for the period specified in the order.	According to the original Chinese text of the Bill, having meals will also be prohibited if the Director makes this order. “某項活動” is used to correspond to the meaning of “activity” in the English version.	It has been suggested to add “某項” to correspond to “an activity” in the English text. We do not consider the addition necessary because there is no article (冠詞) in the Chinese language. Therefore, we prefer staying with the current version.	Not applicable.

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
30(2)(b)	緩解任何對公眾衛生的 <u>造成</u> 危險的不良後果	To mitigate any adverse consequence of a danger to public health.	According to Clause 30(2)(a) of the Bill, "danger to public health" is rendered as "對公眾衛生造成危險". Misunderstanding can be reduced if Clause 30(2)(b) keeps in line with this rendition.	The suggested version may be misinterpreted as "a dangerous and adverse consequence to public health". We suggest the following alternative version for Members' consideration: "對公眾衛生所承受的危險的任何不良後果，予以緩解。"	"對公眾衛生所承受的危險的任何不良後果，予以緩解。"

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
30(5)	署長可沿用作出食物安全命令的相同方式，更改或撤銷該命令，而第 31 條經必要的變通後， 就適用於 根據本款更改或撤銷食物安全命令 而適用 ，猶如該條 就適用於 食物安全命令 而適用 。	The Director may, in the same manner as a food safety order was made, vary or revoke the order, and section 31 applies, with the necessary modifications in relation to the variation or revocation of a food safety order under this subsection as it applies in relation to a food safety order.	For easy comprehension	Our practice in respect of the Chinese rendition for the expression “does not apply in relation to” has been explained in our response to the proposed amendments to Clause 3(1) above. Therefore, we consider the current text appropriate.	Not applicable.

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
54(1)	<p>如任何人為根據本條例執行職能，或根據本條例作出或發出的命令或手令執行職能，而另一人故意對其妨礙、抗拒，或對其使用粗言穢語，則該另一人即屬犯罪，可處第 4 級罰款及監禁 6 個月。</p>	<p>a person who wilfully obstructs, resists or uses abusive language to a person who is performing functions under this Ordinance, or under an order made or warrant issued under this Ordinance, commits an offence and is liable to a fine at level 4 and to imprisonment for 6 months.</p>	<p>At the Bills Committee meeting on 11 January 2011, Members asked the Administration to consider whether the term “粗言穢語” should be amended to match with the term “abusive language” in the English text. Members considered that a person may have used “粗言穢語” but it may not be directed to the public officer and thus not abusive. Members also noted that language may be abusive even if no foul language is involved.</p>	<p>We consider that the Chinese text “對其使用粗言穢語” reflects the meaning that the “粗言穢語” has to be directed to the public officer. However, we agree with the views of Members of the Bills Committee that the Chinese rendition of “abusive language” could be revised to match with the English text. We would like to propose the following amendment to Chinese text of Clause 54(1) of the Bill -</p> <p>“(1) 如任何人為根據本條例執行職能，或根據本條例作出或發出的命令或手令執行職能，而另一人故意妨礙、抗拒或辱罵該人，則該另一人即屬犯罪，可處第4級罰款及監禁6個月。”</p>	<p>“(1) 如任何人為根據本條例執行職能，或根據本條例作出或發出的命令或手令執行職能，而另一人故意妨礙、抗拒或辱罵該人，則該另一人即屬犯罪，可處第 4 級罰款及監禁 6 個月。”</p>

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
55(1)	如可根據本條例針對多於一人就其共同作為或失責進行法律程序，則可只對其中一人或某些人而不對其他的人提出起訴。	If proceedings under this Ordinance are competent against several persons in respect of their joint act or default, any one or more of them may be proceeded against without proceeding against the others.	The omission of the word “只” will make the context more comprehensible.	<p>It has been suggested to omit “只” from the Chinese text of Clause 55(1). We consider that the word “只” would make the meaning of the provision clearer. Clause 55(1) provides for the situation where several persons are jointly liable for an act or default. Generally speaking, each of the persons may be proceeded against. However, the effect of Clause 55(1) is that the Government may bring a proceeding against only one of the persons (or some of them) but not each of the persons (in other words, without proceeding against the other persons). Therefore if the word “只” is omitted from the Chinese text, which will make the provision read “則可對其中一人或某些人而不對其他的人提出起訴”, the emphasis that only the first-mentioned person would be proceeded against would be less obvious. As an example, when comparing the expressions “只說不做” and “說而不做”, the impact of the first expression is stronger than the second expression.</p> <p>Therefore, we consider the current version appropriate.</p>	Not applicable.

Clause	Original text and the proposed amendments by the Members	English Text	Reasons for the proposed amendments	Administration's response	Amended version (if applicable)
-	<p>To add a new clause to make a consequential amendment to the Public Health and Municipal Services Ordinance (Cap. 132) so as to reflect the proposed amendment to Clause 54(1) to the Bill above. The original text of section 139 of Cap. 132 is as below –</p> <p>如任何人為執行本條例所訂的職責而行事，或為執行根據本條例作出或發出的命令或手令所訂的職責而行事，則另一人如故意對其妨礙、抗拒，或對其使用粗言穢語，而本條例並無就此訂定其他條文，該另一人即屬犯罪。</p>	<p>Any person who wilfully obstructs, resists, or uses abusive language to, any person acting in the execution of his duties under this Ordinance, or under any order or warrant made or issued thereunder, shall, in any case for which no other provision is made by this Ordinance, be guilty of an offence.</p>	<p>See that for Clause 54(1)</p>	<p>Section 139 of Cap. 132 is the provision on which Clause 54(1) is modelled. In view of Members' comments on Clause 54(1) of the Bill, we consider that a consequential amendment should be made to section 139 of Cap. 132 for consistency as below –</p> <p>“如任何人為執行本條例所訂的職責而行事，或為執行根據本條例作出或發出的命令或手令所訂的職責而行事，則另一人如故意妨礙、抗拒或辱罵該人，而本條例並無就此訂定其他條文，該另一人即屬犯罪。”</p>	<p>“如任何人為執行本條例所訂的職責而行事，或為執行根據本條例作出或發出的命令或手令所訂的職責而行事，則另一人如故意妨礙、抗拒或辱罵該人，而本條例並無就此訂定其他條文，該另一人即屬犯罪。”</p>