

# 立法會 *Legislative Council*

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## **Panel on Food Safety and Environmental Hygiene**

**Background brief prepared by the Legislative Council Secretariat for the meeting on 9 February 2010**

### **Food Safety Bill**

#### **Purpose**

This paper gives an account of the past discussions by the Panel on Food Safety and Environmental Hygiene (the Panel) on the proposed Food Safety Bill.

#### **Background**

2. The existing control of food safety is mainly provided in Part V of the Public Health and Municipal Services Ordinance (Cap. 132). Under section 52 of Cap. 132, no person shall sell to the prejudice of a purchaser any food which is not of the nature, or not of the substance or not of the quality of the food demanded by the purchaser. Section 54 of Cap. 132 further provides that no person shall sell any food which is intended for but unfit for human consumption.

3. Food incidents in the past years revealed inadequacies in Cap. 132 in the control of food safety. In this regard, the Chief Executive announced in his 2007-2008 Policy Address of the Government's plan to introduce a Food Safety Bill to provide for a comprehensive registration scheme for food importers and distributors. Under the scheme, importers and distributors will be required to maintain proper transaction records of imported food, so that in the event of a food incident, the sources and points of sale of the food concerned can be traced by the Government swiftly and thoroughly. Under the new legislation, when public health is under serious threat, the authorities will be empowered to require all wholesalers and retailers to stop selling and recall the food concerned.

## Past discussions

4. At the meeting on 11 December 2007, the Panel was briefed by the Administration on the proposed Food Safety Bill. The salient features of the Bill were as follows -

(a) Authority of the Bill

The Director of Food and Environmental Hygiene would be the Food Safety Authority (FSA) under the new legislation.

(b) Definition of "food"

The definition of "food" would be broadened to cover live fish, live amphibian as well as ice.

(c) Mandatory registration scheme for food importers and distributors

All food importers and distributors would be required to register with FSA. Only food importers who had registered with FSA would be allowed to import food into Hong Kong. The requirement would apply equally to food coming from overseas or produced locally. In addition to creating an offence for conducting food import and distribution without having been properly registered, it would be an offence for food distributors and retailers to patronise non-registered food importers or non-registered food distributors respectively.

(d) Record-keeping requirement

All food importers and distributors would be required to keep records of the business from which they obtained their food and the business to which they supplied the food. Food retailers would also be required to keep records of the business from which they obtained their food, but not information on the final consumers to whom they sold the food.

(e) Specific import control for food types

Import control measures for different food types, according to their risk level, would be included.

(f) Prohibition of import and sale of problem food and mandatory recall

FSA would be empowered to issue an order to prohibit the import or sale of problem food and to issue a recall order, where FSA had reasonable grounds to believe that the food concerned posed

a serious health hazard to the public.

(g) Food Safety Appeals Board

A Food Safety Appeals Board would be established to hear appeals from any person who felt aggrieved by the decision of FSA.

5. Members were supportive of the legislative proposal and urged the Administration to expedite the legislative process. They, however, expressed concern that the Bill could regulate only part of the whole food chain "from farm to table". Moreover, it would be difficult to eradicate the problem of smuggling of food products from non-registered sources by mixing them up with food products from registered sources.

6. The Administration responded that the Bill would help strengthen the management of every part in the whole food chain through a new regulatory approach, including imposing a registration scheme on food importers and distributors. Supplemented by other regulatory measures, such as mandatory recall of problematic food and the requirement of health certificates for the import of certain food items, the Bill could provide a more comprehensive food safety regulatory framework for imported food.

7. Some members were concerned that small food business operators might have difficulties in complying with the mandatory registration and record-keeping requirements, hence leading to monopolisation by large consortia. Concern was also raised about the impact of the proposals on the operating cost of the food trade.

8. The Administration pointed out that the Bill would boost consumers' confidence, thereby creating a more favourable business environment for the food trade. The Administration was mindful of the impact of the new requirements on the trade. The initial thought for the level of registration fee for food importers and distributors would be about \$200 for a period of three years.

9. Question was raised as to whether a food trader would be charged for breaching both Cap. 132 and the Bill for selling food unfit for human consumption. The Administration advised that this would depend on the circumstances of each case. Review would be made to the provisions of Cap. 132 and the Bill, to avoid any overlapping in these two pieces of legislation.

### **Recent development**

10. Given the immense public concern on food safety in the wake of the melamine incident in 2008, the Administration decided to expedite work in respect of administrative orders to prohibit the import and supply of problem

food and order a recall of the problem food in an Amendment Bill, ahead of the introduction of the full Food Safety Bill. The Public Health and Municipal Services (Amendment) Bill 2008 was introduced into the Legislative Council (LegCo) on 5 November 2008, and was scrutinised by a Bills Committee. The Amendment Bill was passed at the meeting of the Council on 29 April 2009 and came into operation on 8 May 2009.

### **Relevant papers**

11. Members are invited to access LegCo website (<http://www.legco.gov.hk>) for details of the relevant paper and minutes of the meeting.

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