



立法會秘書處 法律事務部  
LEGISLATIVE COUNCIL SECRETARIAT  
LEGAL SERVICE DIVISION

來函編號 YOUR REF :  
本局檔號 OUR REF : LS/S/30/10-11  
電話 TELEPHONE : 2869 9457  
圖文傳真 FACSIMILE : 2877 5029

By Fax (2136 3281)

7 June 2011

Mr Kevin Yeung  
Principal Assistant Secretary for Food  
and Health (Food)1  
Food and Health Bureau  
20/F, Murray Building  
Garden Road  
Central  
Hong Kong

Dear Mr Yeung,

**G.N.(E.) 20 and G.N.(E.) 21 of 2011 made under section 78B of the  
Public Health and Municipal Services Ordinance (Cap. 132)**

Further to our telephone conversations last week, I would be grateful if you could provide more information about Annex C (manner in which a recall should be conducted) to the Orders published in the Gazette as G.N.(E.) 20 and G.N.(E.) 21 of 2011 in respect of foods containing plasticiser di(2-ethylhexyl)phthalate (DEHP).

Section (A) of Annex C - Obligations of Importers  
Section (B) of Annex C - Obligations of Distributors

- (a) G.N.(E.) 20 was made by the Director of Food and Environmental Hygiene on 30 May 2011 but the Order specified that it took effect (生效) at 12:00 on 31 May 2011. Paragraph 4 of section (A) imposes an obligation on importers to notify the Food and Environment Hygiene Department ("FEHD") of the list of parties involved "within one week of the commencement" ("在回收行動開始日期起計的一星期內"). Does "commencement" refer to

12:00 on 31 May 2011? Please also clarify the above issue in the context of G.N.(E.) 21 which was made on 1 June 2011 but took effect at 12:00 on 2 June 2011.

- (b) Under paragraph 5 of section (A) and paragraph 3 of section (B) of Annex C, importers are required to display posters on their respective premises with, inter alia, the full name, address and telephone number of the "recalling trader(s)". Please explain whether importers are required to provide their full names, addresses and telephone numbers if there are no recalling traders involved or appointed.
- (c) Under paragraph 6 of section (A) of Annex C, if the food concerned is returned by distributor(s), retailer(s) or consumers, the recalling trader(s) shall retract the "*unsafe* food". Please clarify whether the "*unsafe* food" refers to *the food* specified in the Order. Please also advise whether the obligation imposed under this paragraph applies to importers.
- (d) Under paragraph 7 of section (A) of Annex C, importers are required to provide FEHD progress reports on a bi-weekly basis with the details of, inter alia, "corrective action taken to improve effectiveness of the recall" (subparagraph (e)). It would appear that a "corrective action" is an action taken in response to some sort of request or demand for such corrective action to improve effectiveness of the recall. Please explain who is to initiate such a request or demand under the Order (or any other legislative provisions).
- (e) Please also explain the above issue in light of the final report submitted by importers under paragraph 8 of section (A) of Annex C, which also requires importers to provide information on "what corrective actions have taken with respect to the recall" (subparagraph (d)).
- (f) Importers are required to include in their final reports to FEHD information about "the means of preventing recurrence of *the defect*" ("如何防止再次出現同類問題") (paragraph 8(f)). Please explain the meaning of "the defect" and its relation to the food specified in the Order.

I would be grateful if you could let me have a reply in bilingual form before 10 June 2011.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Kitty Cheng', written in a cursive style.

Kitty Cheng  
Assistant Legal Adviser

c.c. LA  
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PCS(2)