

LEGISLATIVE COUNCIL BRIEF

Public Health and Municipal Services Ordinance
(Cap. 132)

FOOD AND DRUGS (COMPOSITION AND LABELLING) (AMENDMENT) REGULATION 2014

INTRODUCTION

Currently, the Director of Food and Environmental Hygiene (DFEH) may grant exemption in respect of any prepackaged food with annual sales volume in Hong Kong not exceeding 30 000 units which does not carry nutrition claims on its label or in any advertisement, from the nutrition labelling requirements stipulated in the Food and Drugs (Composition and Labelling) Regulations (“the Regulations”) (Cap.132W) (known as Small Volume Exemption (SVE)).

2. On 13 January 2014, DFEH, in exercise of the power under section 55(1) of the Public Health and Municipal Services Ordinance (Cap. 132), made the Food and Drugs (Composition and Labelling) (Amendment) Regulation 2014 (the Amendment Regulation) at **Annex A** to introduce reduced fee for SVE applications and renewal applications submitted by electronic means through the Food Import Control System (FICS)¹.

A

¹ The Food Import Control System (FICS) is a web-based platform service of the Food and Environmental Hygiene Department. At present, traders may submit SVE applications, report monthly sales volumes of the exempted products and check the cumulative sales volumes of the products through FICS.

JUSTIFICATIONS

3. The Administration amended the Regulations in 2008 to introduce the Nutrition Labelling Scheme (the Scheme) for prepackaged food. The Scheme aims to (a) assist consumers in making informed food choices; (b) encourage food manufacturers to apply sound nutrition principles in the formulation of foods; and (c) regulate misleading or deceptive labels and claims. The Scheme covers nutrition labelling² and nutrition claims (which includes nutrient content claim³, nutrient comparative claim⁴ and nutrient function claim⁵). The Scheme has come into force since 1 July 2010.

4. To minimise the impact on food choice, the Government has established a SVE scheme upon the introduction of the Scheme. For a prepackaged food product with annual sales volume in Hong Kong not exceeding 30 000 units which does not carry nutrition claims on its label or in any advertisement, the food manufacturer / importer may apply to DFEH for exemption from providing nutrition label for the food product in accordance with the Regulations. If the sales volume does not exceed the exemption limit of 30 000 units in a year, the food manufacturer / importer may apply for renewal of exemption. As at 31 December 2013, there are a total of 16 491 SVE products with valid exemption for sale in the market.

5. In addition to submission by mail, fax, email or in person, SVE applications or renewal applications may also be submitted through FICS. Applications (including SVE applications or renewal applications)

² Nutrition labelling refers to the listing of the nutrient content of a food in a standardised manner. When nutrition labelling is applied, energy content and the seven core nutrients (protein, carbohydrates, total fat, saturated fat, trans fat, sodium and sugars) or what is commonly known as “1+7”, and claimed nutrients are required to be affixed on the nutrition label.

³ A nutrient content claim describes the energy value or the level of a nutrient contained in a food, e.g. “High calcium”; “Low fat”; “Sugar-free”.

⁴ A nutrient comparative claim compares the energy value or the nutrient levels of two or more different versions of the same food or similar food, e.g. “Reduced fat – 25% less than the regular product of the same brand”.

⁵ A nutrient function claim describes the physiological role of a nutrient in growth, development and normal functions of the body, e.g. “Calcium aids in the development of strong bones and teeth”.

submitted by such electronic means accounted for 37% of the total number of applications in 2012 and 42% in 2013.

6. The fees for SVE applications are charged on a full-cost recovery basis. As stipulated in subsections 1(3) and 2(3) of Part 2 of Schedule 6 to the Regulations, the fees for SVE applications and renewal applications are currently \$345 and \$335 respectively, which were set in 2008 upon the introduction of the Scheme.

Review of Fees for SVE Applications

7. Since April 2011, the Centre for Food Safety (CFS) has accepted both SVE applications and renewal applications submitted by the food trade by electronic means through FICS. Having regard to the experience gained in processing electronic applications as well as streamlining its work procedures and upgrading its computer system, CFS has enhanced the efficiency in handling such applications.

8. As the above measures can effectively reduce the time taken by CFS staff to process applications, including screening the applications, inputting data, uploading images and examining the information in foreign languages on package labels, cost reduction can be achieved. Upon review, on a full-cost recovery basis, the fees for SVE applications and renewal applications submitted by electronic means through FICS can be significantly reduced by around 23% and 25% to \$265 and \$250 respectively (see table below). Details of the cost computations are set out at **Annex B**.

B

	Current fees (\$)	Proposed fees for submission by electronic means through FICS (\$)
SVE application	345	265
Renewal application	335	250

9. We believe that the reduction of fees will encourage traders to submit their applications through FICS. In addition, the use of electronic applications will save paper and is in line with the Administration's policy on environmental protection.

THE AMENDMENT REGULATION

A 10. The Amendment Regulation at **Annex A** amends Part 2 of Schedule 6 to the Regulations to introduce reduced fees for a new application or renewal application for exemption that is made electronically by means of an online communication system provided by the Authority for the purpose. The main provisions of the Amendment Regulation are as follows-

- (a) Section 1 provides for the commencement of the Amendment Regulation. Subject to negative vetting by the Legislative Council, we propose that the Amendment Regulation will commence on 24 March 2014.
- (b) Section 2 provides that the Regulations are amended as set out in Section 3.
- (c) Section 3 amends subsections 1(3) and 2(3) of Part 2 of Schedule 6 to the Regulations, to the effect that \$265 and \$250 will be charged respectively for application and renewal of SVE made electronically by means of an online communication system provided by the Authority for the purpose.

LEGISLATIVE TIMETABLE

11. The legislative timetable is as follows –

Publication in the Gazette	17 January 2014
Tabling at the Legislative Council for negative vetting	22 January 2014

IMPLICATIONS OF THE PROPOSAL

12. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the principal Ordinance. Owing to the reduced fees proposed in paragraph 8, Government revenue will be reduced by about \$0.45 million annually.

PUBLIC CONSULTATION

13. We consulted the Legislative Council Panel on Food Safety and Environmental Hygiene on 10 December 2013. Members did not raise any objection to the proposal.

14. We consulted members of the trade through a Trade Consultation Forum on 18 December 2013. Traders present were content.

PUBLICITY

15. A press release will be published and a spokesperson will be made available to answer any press enquiries.

ENQUIRIES

16. Any enquiries on this brief may be addressed to Mr Jeff LEUNG, Principal Assistant Secretary for Food and Health (Food)¹ at 3509 8925.

**Food and Health Bureau
Food and Environmental Hygiene Department
January 2014**

Food and Drugs (Composition and Labelling) (Amendment) Regulation 2014

(Made by the Director of Food and Environmental Hygiene under section 55(1) of the Public Health and Municipal Services Ordinance (Cap. 132))

1. Commencement

This Regulation comes into operation on 24 March 2014.

2. Food and Drugs (Composition and Labelling) Regulations amended

The Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg. W) are amended as set out in section 3.

3. Schedule 6 amended (items exempt from Part 1 of Schedule 5)

(1) Schedule 6, Part 2, section 1—

Repeal subsection (3)

Substitute

“(3) On the approval of an application made under subsection (2), the following is payable by the applicant to the Authority—

- (a) if the application is made electronically by means of an online communication system provided by the Authority for the purpose, \$265; or
- (b) if the application is made in any other manner, \$345.”.

(2) Schedule 6, Part 2, section 2—

Repeal subsection (3)

Substitute

“(3) On the approval of an application made under subsection (2), the following is payable by the applicant to the Authority—

- (a) if the application is made electronically by means of an online communication system provided by the Authority for the purpose, \$250; or
- (b) if the application is made in any other manner, \$335.”.

Director of Food and Environmental
Hygiene

13 January 2014

Explanatory Note

This Regulation amends Part 2 of Schedule 6 to the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg. W). Under that Part, the Director of Food and Environmental Hygiene (*Authority*) may grant an exemption, on payment of a fee, in respect of any prepackaged food from the requirement of marking or labelling its energy value and nutrient content if the annual sales volume of the food of the same version in Hong Kong would not exceed 30 000 units. The amendments introduce reduced fees for a new application or renewal application for exemption that is made electronically by means of an online communication system provided by the Authority for the purpose.

COST COMPUTATION

Fees for Small Volume Exemption (SVE) Applications Submitted by Electronic Means through Food Import Control System

Cost at 2013-14 Prices

	SVE Application \$	Renewal Application \$
Staff Costs	228	215
Departmental Expenses	9	9
Accommodation Costs	17	16
Depreciation	4	4
Central Administrative Overhead	6	5
Full Cost (per application)	264	249
	264	249