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Paper for the House Committee

**Report of Subcommittee on Toys and Children's Products Safety
Ordinance (Amendment of Schedules 1 and 2) Notice 2018**

Purpose

This paper reports on the deliberations of the Subcommittee on Toys and Children's Products Safety Ordinance (Amendment of Schedules 1 and 2) Notice 2018 (L.N. 63 of 2018) ("Notice").

Background

Toys and Children's Products Safety Ordinance

2. Under the Toys and Children's Products Safety Ordinance (Cap. 424), no person shall manufacture, import or supply toys and children's products listed in Schedule 2 to the Ordinance ("Schedule 2 products") unless they comply with all the applicable requirements contained in at least one of the safety standards (international standards or standards adopted by major economies) specified in Schedules 1 and 2 to Cap. 424 respectively. Schedule 1 specifies the standards for toys and Schedule 2 specifies the standards for children's products.

3. The Administration keeps in view updates or amendments to the safety standards made by the standards institutions concerned and, as a regular exercise, applies up-to-date, operative versions to products supplied in Hong Kong. Under section 37 of Cap. 424, the Secretary for Commerce and Economic Development ("SCED") may amend both Schedules by notice published in the Gazette.

4. The specified standards for toys and for three classes of Schedule 2 products, namely "babies' dummies", "children's high chairs and multi-purpose high chairs for domestic use" and "children's paints", have been updated or amended by the standards institutions concerned. The Administration proposes to apply the updated versions, and for this purpose, SCED has made the Notice.

The subsidiary legislation

5. SCED has made the Notice under section 37 of Cap. 424 to update certain safety standards for toys and three classes of children's products, namely, "babies' dummies", "children's high chairs and multi-purpose high chair for domestic use" and "children's paints". The revised safety standards are set out in paragraph 5 of the Legislative Council Brief issued by the Administration in April 2018. The revision is to apply the standards updated by the standards institutions since the last amendment to Schedules 1 and 2 in 2017.

Commencement

6. The Notice was gazetted on 6 April 2018 and tabled in the Legislative Council on 11 April 2018. The notice will come into operation on 1 August 2018.

The Subcommittee

7. At the House Committee meeting held on 13 April 2018, Members agreed that a subcommittee should be formed to examine the subsidiary legislation in detail. The membership list of the Subcommittee is in **Appendix**.

8. Under the chairmanship of Hon Jeremy TAM Man-ho, the Subcommittee held one meeting with the Administration on 24 April 2018.

Deliberations of the Subcommittee

9. Members enquire what public education and publicity activities would be conducted regarding the latest product safety requirements, and whether the Administration would step up publicity efforts by distributing relevant information leaflets through the network of the Government's Maternal and Child Health Centres ("MCHC").

10. The Administration explains that apart from regular seminars and talks on the latest safety standards conducted by the Customs and Excise Department ("C&ED"), school visits and related activities would be carried out for

stakeholders and the public, which would provide details regarding the application of the latest product safety requirements and advice to consumers when buying toys and children's products.

11. The Administration clarifies that toys and children's products bought for own consumption from on-line stores or shops outside Hong Kong fall outside the jurisdiction of Cap. 424. The Administration also agrees to consider disseminating information about the updated legislation at MCHCs.

12. Some members enquire how frequent the Administration would update the safety standards of toys and children's products. The Administration explains that they would keep in view updates and amendments to the safety standards made by the standards institutions concerned and incorporate them into the Schedules of Cap. 424 regularly. In the past few years, the exercise was conducted annually. The Administration updated the Schedules of Cap. 424 in 2016 and 2017 to reflect the latest requirements.

13. As regards members' enquiries on the prosecution rates for cases of non-compliance with the various safety standards, the Administration responds that in the three years between 2015 and 2018, a total of 5 198 spot checks have been conducted, in which 217 cases were found not to comply with the requirements as prescribed in Cap. 424 and its regulations. C&ED has issued 21 prohibition notices and 133 written warnings. Members are informed that during this period 12 successful prosecutions have been made.

14. Members acknowledge that, while the prosecution rate was low as compared with the number of spot checks conducted between 2015 and 2018, it may reflect that the majority of toys and children's products available in the local market complied with the prevailing safety requirements. Some members raise concerns about C&ED's monitoring and law enforcement activities of on-line stores and suggest that the Administration should step up spot checking of the toys and children's products sold through such platform. The Administration indicates it will consider members' suggestion.

15. The Subcommittee has completed the scrutiny of the Notice and supports the amendments contained therein.

Advice sought

16. Members are invited to note the deliberations of the Subcommittee.

**Subcommittee on Toys and Children's Products Safety Ordinance
(Amendment of Schedules 1 and 2) Notice 2018**

Membership list

Chairman Hon Jeremy TAM Man-ho

Members Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Holden CHOW Ho-ding
Hon Tanya CHAN

(Total : 5 members)

Clerk Mr Daniel SIN

Legal Adviser Ms Clara TAM