

立法會
Legislative Council

Ref : CB2/SS/7/03

LC Paper No. CB(2)3213/03-04
(These minutes have been seen by
the Administration)

**Subcommittee on
Food and Drugs (Composition and Labelling)
(Amendment) Regulation 2004**

**Minutes of meeting
held on Thursday, 17 June 2004 at 10:30 am
in the Chamber of the Legislative Council Building**

Members present : Dr Hon LO Wing-lok, JP (Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon WONG Yung-kan
Hon Tommy CHEUNG Yu-yan, JP

Members absent : Hon Fred LI Wah-ming, JP
Dr Hon TANG Siu-tong, JP
Hon Michael MAK Kwok-fung

Public officers attending : Mr Eddy CHAN
Deputy Secretary for Health, Welfare and Food
(Food & Environmental Hygiene)

Miss SHEA Wing-man
Assistant Secretary for Health, Welfare and Food
(Food and Environmental Hygiene) 2

Dr Thomas CHUNG
Assistant Director (Food Surveillance and Control)
Food and Environmental Hygiene Department

Mr Stanley NG
Senior Administrative Officer (Food and Public Health)
Food and Environmental Hygiene Department

Ms Carmen CHU
Senior Government Counsel
Department of Justice

Clerk in attendance : Mrs Constance LI
Chief Council Secretary (2)5

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Miss Lolita SHEK
Senior Council Secretary (2)7

Action

I. Meeting with Administration

[LC Paper No. CB(2)2858/03-04(01) and (02)]

The Subcommittee deliberated (Index of proceedings attached at **Annex**).

2. The Administration briefed members on its response to issues raised at the last meeting on 14 June 2004, its proposed way forward and the draft resolution to effect the suggested amendments to the Amendment Regulation [LC Paper No. CB(2)2858/03-04(01)].

(Post-meeting note: LC Paper No. CB(2)2858/03-04(01) was tabled at the meeting and issued to members on 18 June 2004.)

Defence clause

3. The Administration briefed members on the proposed defence clause in the legislation. The Administration explained that it was not acceptable from the legal policy point of view to apply the new labelling requirements on the basis of source countries. The Administration also considered that a blanket disclaimer did not appear to serve the purpose of discharging liability of the defendant.

4. As regards the proposed defence clause to be added to Regulation 5 of the Food and Drugs (Composition and Labelling) Regulation (Cap. 132 sub. leg. W), the Administration advised that it would be for the court to decide whether the defendant had reasonably and in good faith relied on information provided by the importer or manufacturer as to whether the pre-packaged food contained any allergenic substance. Each case would be considered on its own merit.

5. The Administration had also explained that a defendant might be considered to have reasonably and in good faith relied on information provided by the importer or manufacturer, if he had relied on the information provided by the importer or manufacturer and declared on the label that the food might contain the specific category or categories of substance(s) as required by the Administration Regulation.

6. Mrs Selina CHOW considered that the proposed defence clause could not adequately address the trade's concern about situations where no information could be obtained from the supplier or manufacturer. Some members shared the view that the Administration should clearly advise members of the trade how to comply with the new labelling requirements, and to revise the defence clause to expressly provide for cases where information on allergens could not be obtained.

Admin

7. The Administration was of the view that manufacturers should not have much difficulty in providing the lists of ingredients which included allergenic substances used in the production process, except the presence of traces caused by cross-contamination or accidental mixing. Nevertheless, the Administration agreed to consider members' views and revert to the Subcommittee at the next meeting to be held on 21 June 2004.

ALA

8. Members also requested the Assistant Legal Adviser to prepare the following draft amendments for members' consideration at the next meeting –

- (a) providing for a disclaimer/defence clause in case of unavailability of information on allergens; and
- (b) amending the commencement date of the Amendment Regulation to a date to be appointed by the Secretary for Health, Welfare and Food by notice published in the Gazette.

Alcoholic drinks

9. Members agreed to the proposed amendments to continue the exemption for drinks with an alcoholic strength by volume of 10% or more from all labelling requirements. Members noted that drinks with an alcoholic strength by volume of more than 1.2% and less than 10% would be exempted from all labelling requirements except that on durability. The Administration would prepare a voluntary code of practice on the labelling of alcoholic drinks in the latter category in consultation with the trade. This voluntary code of practice would be reviewed after one year of implementation.

Grace period

10. On the Administration's proposed extension of the grace period to 30 months, Mrs Selina CHOW said that she would consult the relevant trades on whether the extension could address their concern that some pre-packaged food, such as canned

food, would have a longer durability.

II. Any other business

11. The Subcommittee agreed to hold the next meeting on Monday, 21 June 2004 at 8:30 am to continue discussion with the Administration, and to examine the proposed amendments to the Amendment Regulation.

12. The Chairman said that the Subcommittee would provide a report for the House Committee meeting on 25 June 2004, and the deadline for notice of amendments to the Amendment Regulation was Tuesday, 29 June 2004.

13. There being no other business, the meeting ended at 12:00 noon.

Council Business Division 2
Legislative Council Secretariat
9 August 2004

**Subcommittee on
Food and Drugs (Composition and Labelling)
(Amendment) Regulation 2004
Meeting on Thursday, 17 June 2004 at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject	Action Required
000000 - 001000	Chairman Administration	The Administration's response to issues raised at the last meeting on 14 June 2004 and proposed amendments to the Amendment Regulation [LC Paper No. CB(2)2858/03-04(01)]	
001001 - 004856	Mrs Selina CHOW Administration Chairman ALA5	The defence clause proposed by the Administration Suggestion to add a defence clause in case of unavailability of information on allergens	
004857 - 010013	Break		
010014 - 010210	Administration	Disclaimer on accidental mixing and presence of traces of allergens in food	
010211 - 010545	Mrs Selina CHOW Chairman Administration	Suggestion to add a defence clause in case of unavailability of information on allergens Way forward	Admin to revert to the Subcommittee on its decision as per paragraph 7 of the minutes ALA to prepare draft amendments as per paragraph 8 of the minutes
010546 - 010652	Chairman Administration	Date of next meeting	

Time marker	Speaker	Subject	Action Required
010653 - 011002	Chairman Mrs Selina CHOW Administration	Labelling requirements on alcoholic drinks Administration's proposal to extend the grace period	

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9 August 2004