

**立法會**  
***Legislative Council***

Ref : CB2/SS/7/03

LC Paper No. CB(2)3214/03-04  
(These minutes have been seen by  
the Administration)

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

**Minutes of meeting  
held on Monday, 21 June 2004 at 8:30 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Dr Hon LO Wing-lok, JP (Chairman)  
Hon Fred LI Wah-ming, JP  
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP  
Hon WONG Yung-kan  
Dr Hon TANG Siu-tong, JP

**Members absent** : Hon Tommy CHEUNG Yu-yan, JP  
Hon Michael MAK Kwok-fung

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

Miss Vivian KO  
Principal Assistant Secretary for Health, Welfare and Food  
(Food and Environmental Hygiene) 1

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

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Action

**I. Meeting with Administration**

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

2. The Subcommittee discussed the Administration's proposed revised resolution (Appendix A to LC Paper No. CB(2) 2896/03-04) which was tabled at the meeting. The Administration explained that the following had been added to the draft resolution –

- (a) paragraph 3A(b) to provide for a defence in case of unavailability of information on allergens; and
- (b) paragraph 3B to stipulate that the defence mentioned in paragraph 3A would not apply when the defendant subsequently had actual notice that the prepackaged food contained allergens.

Admin 3. The Administration also undertook to discuss with the relevant trades to develop a set of guidelines for putting disclaimers on allergens in prepackaged food during the 30 months' grace period.

4. Members generally accepted the proposed paragraph 3A(b) to provide for a defence in case of unavailability of information on allergens. Mrs Selina CHOW objected to the proposed new paragraph 3B which she considered would have the effect of depriving an importer/supplier of the right to rely on the defence clause, despite the fact he had in good faith relied on the information previously provided by the importer or manufacturer. She considered this unfair to the trader concerned.

5. The Administration explained that the purpose of the new paragraph 3B was to close the loophole that an importer/manufacture could rely on the proposed defence clause in paragraph 3A and refuse to re-label the food products concerned, even after receiving notice subsequently that the food products contained the allergen(s). The Administration advised that at present, a food product found in breach of the labelling

requirements would have to be re-labelled.

6. Mrs Selina CHOW was of the view that there would be difficulties for the trade to retrieve all food products concerned for re-labelling, as such products might have already been distributed to various retail outlets. Mrs CHOW considered that the proposed paragraph 3B was not necessary as the defence clause in the proposed paragraph 3A would automatically not apply to any new consignments.

7. Mr Fred LI agreed with the Administration that the trades should have the responsibility to re-label the food products in question after they became aware that such products contained allergens. He requested the Administration to explore ways to address Mrs CHOW's concern.

Admin

8. The Administration agreed to consider amending or deleting paragraph 3B in view of members' concern, and revert to the Subcommittee on or before 23 June 2004. Mrs Selina CHOW suggested that the Administration should discuss with the trades the impact of paragraph 3B on them.

9. The Chairman said that as the Subcommittee would have to report to the House Committee on 25 June 2004, the Administration's response to Mrs CHOW's suggestion would be circulated to members for agreement or comments.

*(Post-meeting note: the Administration's letter dated 21 June 2004 was circulated to members vide LC Paper No. CB(2) 2896/03-04.)*

## **II. Any other business**

10. There being no other business, the meeting ended at 10:10 am.

Council Business Division 2  
Legislative Council Secretariat  
9 August 2004

**Subcommittee on  
Food and Drugs (Composition and Labelling)  
(Amendment) Regulation 2004  
Meeting on Monday, 21 June 2004 at 8:30 am  
in Conference Room B of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action Required</b>
000000 - 000939	Chairman Administration	The Administration's proposed revised resolution [Appendix A to LC Paper No. CB(2) 2896/03-04] which was tabled at the meeting	
000940 - 001809	Mrs Selina CHOW ALA5 Administration	Clarification on the "best endeavours" referred to in the new paragraph 3A(b)(i) in the revised resolution	
001810 - 001925	Mrs Selina CHOW Administration	The Administration to issue Guidelines on disclaimer in food labels	
001926 - 002320	Mrs Selina CHOW Chairman Administration	Usefulness of disclaimers on food labels to customers	
002321 - 002524	Mrs Selina CHOW Administration	The problem of presence of allergens in food products due to accidental mixing or cross contamination during the production process	
002525 - 002842	Mr Fred LI	Comments on the revised resolution	
002843 - 003027	Mr WONG Yung-kun	Comments on the revised resolution	
003028 - 003549	Mrs Selina CHOW Administration ALA5	Application of the defence provision to importers in Hong Kong	
003550 - 011219	Chairman Administration Mrs Selina CHOW ALA5 Mr Fred LI Dr TANG Siu-tong	Comments on the new paragraph 3B in the revised resolution  The legal responsibility of the traders to recall and re-label food products after they had received notice that the food products concerned actually	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action Required</b>
		contained allergens  The Administration's policy and practices in handling cases concerning breach of existing food safety regulations	
011220 - 013214	Chairman Administration Mrs Selina CHOW Mr Fred LI ALA5	Use of administrative measures to require the traders to re-label food products after they had received notice that these food products actually contained allergens	
013215 013943	Administration Chairman Mrs Selina CHOW	The Administration to consider deletion or refinement of the proposed paragraph 3B in the revised resolution  Way forward	<b>Admin to provide a written response as per paragraph 8 of the minutes</b>

Council Business Division 2  
Legislative Council Secretariat  
9 August 2004