

## **LEGISLATIVE COUNCIL BRIEF**

### **Public Health and Municipal Services Ordinance (Cap. 132)**

### **FOOD AND DRUGS (COMPOSITION AND LABELLING) (AMENDMENT) REGULATION 2004**

#### **INTRODUCTION**

On 11 May 2004, the Director of Food and Environmental Hygiene, 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 2004 (the Amendment Regulation) at Annex.

#### **JUSTIFICATIONS**

##### ***General Background***

2. The Food and Drugs (Composition and Labelling) Regulations (hereafter referred to as “the Regulations”) stipulate the standards of composition of a number of food products, e.g. coffee, vinegar, honey, milk and milk products, etc. The Regulations also require that the following information be provided and displayed on the labels of prepackaged food:

- (a) name or designation of the food;
- (b) list of ingredients and additives;
- (c) indication of “best before” or “use by” date;
- (d) special condition for storage or instruction for use;
- (e) count, weight or volume; and
- (f) name and address of manufacturer or packer.

### ***Proposed Amendments***

3. As part of Government’s efforts to enhance food safety for the protection of public health and consumer interest, we conduct regular reviews of the legal provisions and requirements for food labelling. The current round of review has identified five areas in which the existing composition and labelling legislation should be improved:

- (a) food labels should declare the presence of eight types of substances which are known to cause allergy in some individuals;

- (b) food labels should specifically indicate the name or code of the food additive used;
- (c) the format required in marking the “best before or “use by” date should be made more flexible to the trade and clearer to consumers;
- (d) not all alcoholic drinks should be exempted from labelling requirements; and
- (e) restrictions on the inclusion of additives in condensed or evaporated milk and butter should be relaxed.

#### Labelling of Allergenic Substances

4. The existing legislation does not impose specific requirements on labelling of ingredients or additives which may cause allergy to some individuals. To make sure that consumers are aware of the presence of substances in food products which are known to cause allergy in some people, these substances should always be declared in the list of ingredients on the labels. Codex Alimentarius Commission<sup>1</sup> (Codex) has recommended that the presence of eight categories of these substances should always be declared. We propose to include this requirement in the Regulations. The eight categories are:

- (a) cereals containing gluten, i.e. wheat, rye, barley, oats, spelt or their hybridized strains and products of these;

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<sup>1</sup> The Codex Alimentarius Commission under the United Nations is recognized by the World Health Organization, the Food and Agriculture Organization and the World Trade Organization as the international authority for setting food related standards.

- (b) crustacean and crustacean products;
- (c) eggs and egg products;
- (d) fish and fish products;
- (e) peanuts, soybeans and their products;
- (f) milk and milk products (lactose included);
- (g) tree nuts and nut products; and
- (h) sulphite in concentrations of 10 parts per million or more.

5. As a general rule, if a food product contains any of the above eight categories of food ingredients, their presence must be declared in the list of ingredients. Also, except as specified under item (h), there should be no threshold for this labelling requirement. Even trace amount of any of these food ingredients must be declared.

#### Labelling of Details of Food Additives Used

6. The existing Regulations require food labels to declare either the exact name of any additives used, or just the general categories to which the additives belong, such as preservative and colour. To provide consumers with more information and to implement Codex recommendations in this respect, both the category and the exact name of the additives should be declared on food labels. For example, instead of stating “preservative” (which already fulfils the requirement of the existing legislation), detailed information such as “preservative – sodium nitrate” should be declared.

7. Since there may be practical difficulties for food manufacturers to list the full names of all the food additives used because of limited food label space, we propose that listing of the identification number of additives under the International Numbering System for Food Additives (INS) adopted by the Codex as alternatives to full names should also be allowed. We are also aware that food manufacturers in European Union countries use the “E number” system, which is in fact the same as the INS system with a prefix “E” or “e” to each code. This system is also acceptable to us. Using the previous example, “preservative 251”, “preservative E251” or “preservative e251” will be accepted as alternatives to “preservative – sodium nitrate”.

#### More Flexible Date Marking Format

8. The existing Regulations require the “best before” or the “use by” date of food products to be marked in both English and Chinese language, or in Arabic numerals in the strict order of the day followed by the month and then the year. While marking the date in English and Chinese words is straightforward, there are two problems associated with the existing Arabic numeral option:

- (a) the date marking sequence of the products normally follows the convention of the country of origin. Products of some countries such as United States are marked in the sequence of the month followed by the day and then the year. Importers have raised complaints

about the unnecessary costs incurred due to the order requirement as they have to introduce additional food labels to replace the original ones in order to comply with our legislative requirement; and

- (b) confusions arising from the display of a sequence of number. For example, the date mark “05 10 03” may denote 5 October 2003 or 10 May 2003.

9. To address the concerns of the trade and consumers, more flexibility should be allowed. Consumers should also be informed of the exact date marking sequence to avoid confusions. When Arabic numerals are used to show the durability period of a food, the restriction on the order in which the year, the month and the day appear should be lifted but the exact sequence must be clearly declared in both Chinese and English words.

10. We notice that some food traders may prefer to use capital letters or single letters to denote the day, month or year. As long as the indication is clear, we intend to allow these alternative ways of denoting the sequence. As an example, we plan to allow the use of “y”, “yy” or “Y” along with “YY” as indications of the year marking. The same applies to the day and month markings.

## Labelling of Alcoholic Drinks

11. Currently, all prepackaged food with an alcoholic strength by volume of more than 1.2% as determined under section 53 of the Dutiable Commodities Ordinance (Cap. 109) are exempted from all food labelling requirements. We have reviewed this exemption and concluded that it is too broad. We have taken into consideration two factors in coming to this conclusion.

12. First, the recommendation/view of Codex is that alcoholic drinks should comply with all food labelling requirements, except the following three categories:

- (a) drinks with alcoholic strength by volume of more than 10%;
- (b) wines; and
- (c) fruit wines.

13. For these three exceptions, no labelling of durability period is considered necessary. The reason is that these drinks are by nature much less vulnerable to quality deterioration due to aging.

14. Secondly, we have received views from the beer industry that beers should not be exempted from the requirement of labelling durability period. They were of the view that unlike other alcoholic drinks, the quality of beer would deteriorate over time. We agree with their

proposal that the labelling of “best before” date should be made a statutory requirement for beers.

15. Taking into consideration the recommendations of Codex and the views of the beer industry, we propose to amend the Regulations to require alcoholic drinks to fulfill all statutory labelling requirements. However, the existing exemption of all drinks with an alcoholic strength by volume of more than 1.2% from the labelling of ingredients should continue because there are technical difficulties in analyzing the ingredients from the output product, making enforcement difficult. We also proposed to exempt wines, liqueur wines, sparkling wines, aromatized wines, fruit wines, sparkling fruit wines, and other drinks with an alcoholic strength by volume of 10% or more from labelling of durability period.

#### Additives in Condensed or Evaporated Milk and Butter

16. The existing legislation imposes restrictions on the inclusion of additives in condensed or evaporated milk and butter. In the recent review of the Regulations, it is found that our existing requirements concerning the inclusion of additives are more restrictive than the standard recommended by the Codex. Codex will only allow the use of additives after receiving recommendation from the Joint Food and Agriculture Organization/World Health Organization Expert Committee on Food Additives (JEFCA), an internationally recognized authority for safety, that the additives are safe for human consumption. We therefore



propose to relax the restriction by making reference to the Codex standard.

## **THE AMENDMENT REGULATION**

17. The Amendment Regulation is expected to come into operation on 9 July 2004. A grace period of 18-month will be allowed for the trade after the commencement of the Amendment Regulation on the labelling of additives and allergens. Relaxation on the additives in milk products and butter will be implemented immediately.

## **LEGISLATIVE TIMETABLE**

18. The legislative timetable is as follows:-

Publication in the Gazette	14 May 2004
Tabling at LegCo	19 May 2004

## **IMPLICATIONS OF THE PROPOSAL**

19. 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. It has no financial, civil service, economic, productivity and environmental implications.

## **PUBLIC CONSULTATION**

20. We conducted a public consultation exercise on the proposed labelling amendment highlighted in paragraphs 4 to 15 from October to December 2000. About 1 200 letters attaching detailed proposals were sent to all major stakeholders, including related trade associations, food importers and manufacturers, chained supermarkets and department stores, consulates, medical professional bodies and the Consumer Council. Views collected indicate that there was general support from the trade, the medical profession and the consumers. In accordance with established and agreed procedures, we notified the World Trade Organization (WTO) and through its notification system consulted the international community on our proposed amendments. We have not received any objections from members of the WTO. We also consulted the Advisory Council on Food and Environmental Hygiene (ACFEH) on our proposals. Members of the ACFEH supported our proposed amendments and believed that consumers would find the additional labelling requirements useful. We briefed the Legislative Council Panel on Food Safety and Environmental Hygiene on 22 January 2001 and Members did not object to the proposed labelling amendments. The Amendment Regulation also aims at relaxing the restriction on the additives to be included in certain milk products and butter (paragraph 16). The amendment is likely to be

welcomed by the trade. As this is a technical exercise, public consultation is not considered necessary.

## **PUBLICITY**

21. A press release will be issued. A spokesman will be made available to answer media enquiries.

## **ENQUIRIES**

22. Any enquiry on this brief can be addressed to Miss Cordelia LAM, Assistant Secretary for Health, Welfare and Food (tel no: 2136 3407).

Health, Welfare and Food Bureau

May 2004

**FOOD AND DRUGS (COMPOSITION AND LABELLING)  
(AMENDMENT) REGULATION 2004**

(Made under section 55(1) of the Public Health and  
Municipal Services Ordinance (Cap. 132))

**1. Commencement**

This Regulation shall come into operation on 9 July 2004.

**2. Interpretation**

Regulation 2(1) of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg. W) is amended by adding -

"Codex Alimentarius Commission" (食品法典委員會) means the body created in 1963 by the World Health Organization and the Food and Agriculture Organization to develop food standards, guidelines and related texts;

"International Numbering System for Food Additives" (食物添加劑國際編碼系統) means the numbering system adopted by the Codex Alimentarius Commission for identifying food additives in a list of ingredients of prepackaged food;".

**3. Schedule 1 amended**

Schedule 1 is amended, in Part II -

(a) in item 14, by adding ", salt (sodium chloride) and any additive specified in column 2 of Division 1 of Part III of this Schedule not exceeding the level specified opposite to the additive in column 3 of that Division" after "except sugar";

(b) in item 15, by adding ", salt (sodium chloride) and

- any additive specified in column 2 of Division 1 of Part III of this Schedule not exceeding the level specified opposite to the additive in column 3 of that Division" after "than sugar";
- (c) in item 16, by adding "except salt (sodium chloride) and any additive specified in column 2 of Division 1 of Part III of this Schedule not exceeding the level specified opposite to the additive in column 3 of that Division" after "substance";
- (d) in item 18, by repealing "and permitted colouring matter" and substituting ", permitted colouring matter and any additive specified in column 2 of Division 2 of Part III of this Schedule not exceeding the level specified opposite to the additive in column 3 of that Division";
- (e) by adding -

"PART III

ADDITIVES IN CERTAIN MILK PRODUCTS

**Division 1**

**Additives in sweetened condensed or evaporated milk,  
sweetened condensed skimmed or separated milk and  
unsweetened condensed or evaporated milk**

Item	Additive	Maximum Level
<b>Firming Agents</b>		
1.	Potassium chloride	2 grams per kilogram

- |    |                  |   |
|----|------------------|---|
| 2. | Calcium chloride | singly or 3 grams per<br>kilogram in<br>combination, expressed<br>as anhydrous substances |
|----|------------------|---|

**Stabilizers**

- |    |                    |   |
|----|--------------------|---|
| 3. | Sodium citrates    | 2 grams per kilogram                              |
| 4. | Potassium citrates | singly or 3 grams per<br>kilogram in              |
| 5. | Calcium citrates   | combination, expressed<br>as anhydrous substances |

**Acidity Regulators**

- |     |                      |   |
|-----|----------------------|---|
| 6.  | Calcium carbonates   | 2 grams per kilogram                              |
| 7.  | Sodium phosphates    | singly or 3 grams per<br>kilogram in              |
| 8.  | Potassium phosphates | combination, expressed<br>as anhydrous substances |
| 9.  | Calcium phosphates   |   |
| 10. | Diphosphates         |   |
| 11. | Triphosphates        |   |
| 12. | Polyphosphates       |   |
| 13. | Sodium carbonates    |   |
| 14. | Potassium carbonates |   |

**Thickener**

- |     |             |                                |
|-----|-------------|--------------------------------|
| 15. | Carrageenan | 150 milligrams per<br>kilogram |
|-----|-------------|--------------------------------|

**Emulsifier**

- |     |           |   |
|-----|-----------|---|
| 16. | Lecithins | Limited by good<br>manufacturing practice |
|-----|-----------|---|

**Division 2**

**Additives in butter**

Item	Additive	Maximum Level
<b>Acidity Regulators</b>		
1.	Sodium phosphates	2 grams per kilogram
2.	Sodium carbonate	} Limited by good manufacturing practice
3.	Sodium hydrogen carbonate	
4.	Sodium hydroxide	
5.	Calcium hydroxide	

For the purposes of this Part, "good manufacturing practice" (優良製造規範) includes a manufacturing practice which complies with the following requirements -

- a) the quantity of the additive added to food is limited to the lowest possible level necessary to accomplish its desired effect;
- b) the quantity of the additive that becomes a component of food as a result of its use in the manufacturing, processing or packaging of a food and which is not intended to accomplish any physical, or other technical effect in the food itself, is reduced to the extent reasonably possible; and
- c) the additive is prepared and handled in the same way as a food ingredient."

**4. Marking and labelling of prepackaged foods**

Schedule 3 is amended -

(a) in paragraph 2 -

(i) by adding -

"(4E) (a) If a food consists of or contains any of the following substances -

- (i) cereals  
containing  
gluten (namely  
wheat, rye,  
barley, oats,  
spelt, their  
hybridized  
strains and  
their products);
- (ii) crustacea and  
crustacean  
products;
- (iii) eggs and egg  
products;
- (iv) fish and fish  
products;
- (v) peanuts,  
soyabeans and  
their products;
- (vi) milk and milk  
products  
(including



lactose);

- (vii) tree nuts and  
nut products,

the name of the substance  
shall be specified in the  
list of ingredients.

- (b) If a food consists of or  
contains sulphite in a  
concentration of 10 parts  
per million or more, the  
functional class of the  
sulphite and its name  
shall be specified in the  
list of ingredients.";

- (ii) in sub-paragraph (5), by repealing  
everything after "additive" and  
substituting -

"(except an additive specified in sub-  
paragraph (7)) constituting one of  
the ingredients of a food shall be  
listed by its functional class and -

- (a) its specific name; or
- (b) its identification

number under the  
International  
Numbering System for  
Food Additives; or

- (c) its identification  
number under the

International  
Numbering System for  
Food Additives with  
the prefix "E" or  
"e".;

(iii) in sub-paragraph (6) -

(A) by repealing "categories" and  
substituting "functional classes";

(B) by repealing "Flavour enhancer (味道  
強化劑)", "Flavouring (調味劑)",  
"Flour improver (麵粉改良劑)" and  
"Modified starch (改性澱粉)";

(C) by adding -

"Bulking agent (增體劑)  
Colour retention agent (護色劑)  
Firming agent (固化劑)  
Flavour enhancer (增味劑)  
Flour treatment agent (麵粉處理劑)  
Foaming agent (發泡劑)  
Humectant (水分保持劑)  
Propellant (推進劑)";

(iv) by adding -

"(7) An additive which constitutes  
one of the ingredients of a food and  
falls in any of the following classes  
shall be listed by the appropriate class  
title -

(a) flavour and flavouring (調  
味料及調味劑);

(b) modified starch (改性澱粉),  
and the expression "flavour" may be  
qualified by "natural", "natural  
identical", "artificial" or a combination  
of these words as appropriate.";

(b) in paragraph 4 -

(i) in sub-paragraph (4) -

(A) by repealing ", in that order,";

(B) in sub-sub-paragraph (a), by  
repealing ", in that order";

(C) in sub-sub-paragraphs (b) and (c),  
by repealing ", in that order,";

(ii) in sub-paragraph (5) -

(A) by repealing ", in that order,";

(B) by repealing ", in that order";

(iii) by repealing sub-paragraph (7) and  
substituting -

"(7) Where the "best before" (此  
日期前最佳) date or the "use by" (此日  
期前食用) date is shown in Arabic  
numerals -

(a) the day shall be  
indicated by the  
words "DD", "dd", "D"  
or "d" in English  
lettering and "日" in  
Chinese character;

(b) the month shall be  
indicated by the

words "MM", "mm", "M"  
or "m" in English  
lettering and "月" in  
Chinese character;  
and

(c) the year shall be indicated by the words "YY", "yy", "Y" or "y" in English lettering and "年" in Chinese character,

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and the day, month and year can
appear in any order.";
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(c) in paragraph 8(1), by repealing "and (5)" and substituting ", (5) and (7)".

## 5. Items exempt from Schedule 3

Schedule 4 is amended –

(a) by repealing the first item and substituting -

"Drinks with an alcoholic strength by volume of more than 1.2% but less than 10% as determined under section 53 of the Dutiable Commodities Ordinance (Cap. 109)

(b) by adding -

"Wines, liqueur wines,                      Paragraphs 2  
sparkling wines, aromatised              and 4".  
wines, fruit wines, sparkling  
fruit wines and other drinks  
with an alcoholic strength by  
volume of 10% or more as  
determined under section 53  
of the Dutiable Commodities  
Ordinance (Cap. 109)

#### **6. Transitional provision**

It shall not be an offence under regulation 5(1) of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg. W)("principal Regulations") to advertise for sale, sell or manufacture for sale on or before 9 January 2006 any prepackaged food which is not labelled in accordance with paragraphs 2 and 4 of Schedule 3 to the principal Regulations as amended by this Regulation, if that prepackaged food is labelled in accordance with what would have been the requirements of paragraphs 2 and 4 of Schedule 3 to the principal Regulations had this Regulation not come into operation.

Director of Food and Environmental Hygiene

2004

### **Explanatory Note**

This Regulation amends the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg. W) in a number of ways.

It -

- (a) relaxes the restrictions on the inclusion of additives in certain milk products in line with the new guidelines adopted by the Codex Alimentarius Commission;
- (b) requires food labels to declare the presence of certain substances which are known to cause allergy (new paragraph 2(4E) of Schedule 3);
- (c) requires food labels to list both the functional class (i.e. the category) of the food additive used and its specific name (or its identification number under the International Numbering System for Food Additives);
- (d) updates the functional class of additives for labelling purposes in line with the new guidelines adopted by the Codex Alimentarius Commission;
- (e) requires the "best before" and "use by" dates shown in Arabic numerals to indicate their sequences in English letterings and Chinese characters and removes the requirement for the dates to be listed in the strict order of the day, the month and the year;
- (f) exempts drinks with an alcoholic strength by volume of more than 1.2% but less than 10% from the requirements in respect of a list of ingredients but requires other prepackaged food which was

previously exempted to comply with the requirements in Schedule 3; and

- (g) exempts wines and other drinks with an alcoholic strength by volume of 10% or more from certain requirements in Schedule 3.