

Tel No.: 2973 8148
Fax No.: 2136 3281
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8 September 2006

Mr Stephen Lam
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
8 Jackson Road
Central
(Fax: 2877 5029)

Dear Mr Lam,

Food Business (Amendment) Regulation 2006 (L.N. 169)

Thank you for your letter of 4 August 2006 on the Food Business (Amendment) Regulation 2006 (L.N. 169 of 2006) (“the Amendment Regulation”). Our responses to the questions you raised are set out below.

New Section 30D(1)

- The reference to “chilled meat” has existed in the Food Business Regulation (Cap. 132 sub. leg. X) long before the introduction of the Amendment Regulation. In previous enforcement actions, we have not encountered difficulties on what is meant by “chilled meat”.

At present, meat on sale in Hong Kong can be classified into three categories: (i) fresh meat is recognised as meat slaughtered locally and then delivered to retail outlets for sale without being subjected to chilling or any form of preservation; (ii) frozen meat is normally imported and has been put through a freezing procedure to lower its temperature to around -18°C; and (iii) chilled meat, which is between the two. It is imported meat which has been subjected to a chilling process to lower its temperature to around 0 – 4 °C. For food hygiene reasons, the cold chain has to be preserved for both chilled and frozen meat until the point of sale to the ultimate consumer. As such, distribution

and processing (such as de-boning) have to be carried out in temperature-controlled environment. Detailed requirements/conditions concerning the sale and handling of fresh, chilled and frozen meat respectively have been set out clearly in the form of guidelines for licensees of fresh provision shops (FPSs) and tenants of public markets.

The new section 30D(1) seeks to prohibit the sale of fresh beef, mutton or pork with chilled beef, mutton or pork that has not been pre-packaged at the same premises of an FPS. Given what is meant by fresh and chilled meat, and that the proper steps of handling them respectively have been made clear to the trade, we do not envisage a strong need to define the term “chilled” in the context of this amendment exercise.

- You are correct that it is our intention to interpret “beef, mutton and pork” as equivalent to “the flesh of cattle (including buffaloes), goats, sheep and swine” referred to in paragraph (a) of the definition of the term “meat” under section 3(1) of the Principal Regulation.

New Section 31A

- The reference to “permission” in section 31A is intended to have a wider coverage of “permission of any form” which also includes “permission in writing”. Therefore, there is no need to add “in writing” after “permission” as in section 30(1) of the Principal Regulation.
- Your observation is correct. The effect of the provision is that the Director cannot grant permission to a person to sell, etc. -

(a) fresh meat; and

(b) the chilled flesh of horses, mules, hinnies and donkeys,

at the same premises or market stall. This is consistent with our policy to prohibit the sale of fresh meat with chilled meat at the same premises of an FPS or market stall.

The exception provided under the new section 30E, which allows the sale of fresh beef, mutton or pork with chilled beef, mutton or pork that has been pre-packaged and labelled at the same premises or market stall, is, in fact, a special arrangement for these three types of meat only in order to maintain the same level of convenience to consumers.

I hope the above clarify matters?

Yours sincerely,

(Vincent Liu)
for Secretary for Health, Welfare and Food

c.c.

DFEH	(Attn: Ms Rhonda Lo)	2536 0355
	(Attn: Mr Benjamin Mok)	2530 1368
DoJ	(Attn: Mrs Emme Waller)	2180 9966
	(Attn: Mr Vidy Cheung)	2845 2215