



中華人民共和國香港特別行政區政府總部食物及衛生局
Food and Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

本函檔號 **Our ref.:**
來函檔號 **Your ref.:** LS/S/25/07-08

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17 April 2008

Ms Connie Fung
Assistant Legal Advisor
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Hong Kong
(Fax : 2877 5029)

Dear Ms Fung,

**Food and Drugs (Composition and Labelling)
(Amendment: Requirements for Nutrition Labelling and
Nutrition Claim) Regulation 2008 (L.N. 69 of 2008)**

Thank you for your letter of 14 April 2008.

Our response to the questions raised are set out in the attached note.
Please feel free to let us know if you have further questions.

(Mrs Angelina Cheung)
for Secretary for Food and Health

Response to Further Comments from Assistant Legal Advisor on the

Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 (L.N. 69 of 2008)

1. Meaning of “food of the same version” for the purposes of the small volume exemption scheme under Part 2 of Schedule 6

The meaning of the phrase "food of the same version" is clear in the context of Part 2 of Schedule 6, and the examples provided in the last reply were to illustrate that “same version” is given its general meaning. Since there are many aspects in which two products may be different, it is impossible to list out all factors that are to be taken into account. The Administration has explained this to the trade at technical meetings and they have not raised any problem on this matter.

2. Section 1(4)(b) of Part 2 of Schedule 6

Section 1(4) provides that the Authority may impose such conditions as the Authority may deem fit; and require the applicant to give an undertaking to comply with such conditions as the Authority may from time to time impose with regard to the prepackaged food to which the exemption applies. We note your concern that this would have the effect of varying the existing conditions or imposing additional conditions.

As an administrative measure, any new conditions will be imposed and/or existing conditions altered, only after a notice in writing has been given to the grantee not less than 90 days before the implementation of the new conditions/altered conditions. The exemption will be revoked upon expiry of the period specified in the notice if the grantee refuses to comply with the new conditions/altered conditions. As provided in section 3(4) of Part 2 of Schedule 6, the grantee will be notified of the Authority’s intention to revoke the exemption in writing and be allowed to make representation before a decision on revocation is made.

3. Renewal of exemption under section 2 of Part 2 of Schedule 6

When the exemption granted under section 1(1) of Part 2 of Schedule 6 is renewed under section 2 of that Schedule, the same set of conditions automatically applies to the renewed exemption, which is in fact the same exemption applying to the same prepackaged food. We therefore do not see it necessary to add a separate provision in section 2 to specifically empower the Authority to impose conditions on renewal of the same exemption. Recent example can be found in section 8 of the Karaoke Establishments Ordinance (Cap 573), which provides for renewal of permit or licence. Section 8(5) of Cap 573 provides, inter alia, that the licensing authority may in respect of the renewed permit or licence impose any condition in addition to or instead of any condition previously imposed by him under section 5(2) or 6(4), as the case may be. This shows that the same set of conditions automatically applies to the renewed permit or licence and it is therefore only necessary to empower the licensing authority to impose any condition not previously imposed. Similar provision can also be found in section 9 of the Hotel and Guesthouse Accommodation Ordinance (Cap 349).

4. Appeal against the Authority's decision

- (a) As provided in section 3(4) of Part 2 of Schedule 6, the Authority shall not revoke an exemption unless the Authority notifies the grantee in writing of his intention to revoke the exemption and the grounds upon which the Authority proposes to revoke the exemption. Before revoking the exemption, the Authority is also required to permit the grantee to make representations to the Authority in writing within the period specified in the notice and to consider the representations, if any, made by the grantee. As provided in section 3(5), if the Authority revokes an exemption, the Authority shall, as soon as practicable, notify the grantee in writing and specify in the notice the grounds for the revocation and the date on which the revocation is to take effect.
- (b) The decision of refusing to grant an application, revoking an exemption or refusing an application for renewal, are subject to judicial review.