

- (b) food intended to be consumed principally by children under the age of 36 months; and
- (c) other food for special dietary uses.”.

5. Offences and penalties

- (1) Regulation 5(1) is amended by repealing “or Schedule 3”.
- (2) Regulation 5 is amended by adding immediately after paragraph (1) –

“(1AA) Any person who advertises for sale, sells or manufactures for sale any prepackaged food which –

- (a) is not marked or labelled in compliance with regulation 4A(1) or 4B(1); or
 - (b) has on its label any nutrition claim that does not conform to regulation 4B(5),
- commits an offence and is liable to a fine at level 5 and to imprisonment for 6 months.

(1AB) If –

- (a) any person advertises for sale any prepackaged food; and
 - (b) the advertisement contains any nutrition claim that does not conform to regulation 4B(5),
- the person commits an offence and is liable to a fine at level 5 and to imprisonment for 6 months.”.

- (3) Regulation 5(1B) is amended by repealing “Schedule 2 or Schedule 3” and substituting “regulation 4, 4A or 4B”.

- (4) Regulation 5(2) is amended by repealing “paragraph (1)” and substituting “paragraph (1), (1AA) or (1AB)”.

- (5) Regulation 5(2) is amended by repealing everything after “publication of an advertisement,” and substituting –

“it shall be a defence for the defendant to prove –

- (a) that before publishing, or arranging for the publication of, the advertisement, the defendant had taken all reasonable steps to ensure that all nutrition claims in the advertisement conform to regulation 4B(5); or
- (b) that, being a person whose business is to publish, or arrange for the publication of, advertisements, the defendant received the advertisement for publication in the ordinary course of business.”.

(6) Regulation 5(3) is amended by repealing “paragraph (1)” and substituting “paragraph (1) or (1AA)”.

(6A) Regulation 5(3) is amended, in the Chinese text, by repealing “依照上述方式” and substituting “遵照上述規定” .

(7) Regulation 5(3) is amended by repealing “in the manner prescribed in Schedule 2 or Schedule 3” and substituting “in compliance with regulation 4, 4A(1) or 4B(1)”.

(8) Regulation 5(3A) is amended by repealing “paragraph (1)” and substituting “paragraph (1AA)”.

(9) Regulation 5(3A) is amended by repealing “paragraph 2(4E)” and substituting “section 2(4E)”.

(10) Regulation 5(3A)(a) is amended by repealing “sub-paragraph” and substituting “section”.

6. Schedule 1 amended

Schedule 1 is amended by repealing “[reg. 3]” and substituting “[regs. 3 & 5 & Sch. 2]”.

- (a) the nutrient reference value of that nutrient; or
- (b) any other reference value of that nutrient adopted by any national or international health authority.

(4) If the content of any other nutrient is expressed as a percentage in a list of nutrients, the content of that nutrient shall be expressed in the manner specified in subsection (3).

4. **Format of list of nutrients**

(1) Subject to subsection (2), a list of nutrients shall be presented in tabular form in a conspicuous place of the package with an appropriate heading.

(2) A list of nutrients may be presented in linear form if the total surface area of the package is smaller than 200 cm².

(3) The marking or labelling of prepackaged food for the purposes of this [Schedule-Part](#) shall be in –

- (a) the English language;
- (b) the Chinese language; or
- (c) both languages,

but numbers may be expressed in Arabic numerals.

(4) Without prejudice to section 8(2) of Schedule 3, a list of nutrients shall be in both the English and Chinese languages if both languages are used in the marking or labelling of prepackaged food.

(5) Unless the Authority otherwise requires in any particular case, any prepackaged food may, if it is national or traditional to the country of its manufacture and is not generally manufactured in any other country, be marked or labelled in accordance with this Schedule in the language of the country of its manufacture.

15. Prepackaged food sold to a catering establishment as a single item.

Note: In this Part –

“prepared” (製備) includes boning, paring, grinding, cutting, cleaning, trimming, flavouring or packaging, but does not include processing;

“processed” (加工處理) includes any treatment or process resulting in a substantial change in the natural state of any food, and “processing” (加工處理) in the definition of “prepared” in this Note shall be construed accordingly.

PART 2

PREPACKAGED FOOD WITH ANNUAL SALES VOLUME NOT EXCEEDING 30 000 UNITS MAY BE EXEMPT FROM PART 1 OF SCHEDULE 5 UNDER REGULATION 4B(2)(b) OF THESE REGULATIONS

1. Exemption from Part 1 of Schedule 5

(1) Upon an application made under subsection (2), the Authority may, subject to section 3(1), grant an exemption in respect of any prepackaged food from the requirements of Part 1 of Schedule 5 if the Authority is satisfied that the annual sales volume of food of the same version in Hong Kong would not exceed 30 000 units.

(1A) In determining whether certain prepackaged foods are of the same version for the purposes of subsection (1), regard shall be had to all relevant matters including –

- (a) the ingredient of the foods;
- (b) the volume, weight and packing size of the foods;
- (c) the flavour of the foods;
- (d) the manufacturer and packer of the foods; and

(e) the container of the foods.

(2) Any importer or manufacturer of a prepackaged food may apply to the Authority for exemption under subsection (1) in such manner as the Authority may determine.

(3) An applicant for exemption shall pay to the Authority \$345 upon approval of the application.

(4) When an exemption is granted under subsection (1), The the Authority may impose such conditions as the Authority thinks fit.—

~~(a) impose such conditions as the Authority may deem fit; and~~

~~(b) 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.~~

(5) An exemption granted under subsection (1) shall be valid —

(a) (where no other exemption granted under that subsection is for the time being in force in relation to the version of the prepackaged food concerned) for one year;

(b) (where only one other exemption granted under that subsection is for the time being in force in relation to the version of the prepackaged food concerned) until the expiry date of that other exemption; or

(c) (where 2 or more other exemptions granted under that subsection are for the time being in force in relation to the version of the prepackaged food concerned) until the expiry date of the first of such exemptions.

2. **Renewal of exemption**

(1) Upon an application made under subsection (2), the Authority may, subject to section 3(2), renew an exemption granted under section 1(1) if the Authority is satisfied that –

- (a) (where no other exemption granted under section 1(1) is for the time being in force in relation to the version of the prepackaged food concerned) the total sales volume of the version of the prepackaged food in Hong Kong within the validity period of the exemption would not exceed 30 000 units;
- (b) (where only one other exemption granted under section 1(1) is for the time being in force in relation to the version of the prepackaged food concerned) the total sales volume of the version of the prepackaged food in Hong Kong within the validity period of that other exemption would not exceed 30 000 units; or
- (c) (where 2 or more other exemptions granted under section 1(1) are for the time being in force in relation to the version of the prepackaged food concerned) the total sales volume of the version of the prepackaged food in Hong Kong within the validity period of the first of such exemptions would not exceed 30 000 units.

(2) A person to whom an exemption has been granted may, before the expiration of the exemption, apply to the Authority for renewal of the exemption in such manner as the Authority may determine.

(3) An applicant for renewal shall pay to the Authority \$335 upon approval of the application.

(3A) The Authority may in respect of a renewed exemption impose any condition in addition to or instead of any condition previously imposed under section 1(4).

- (4) A renewal under subsection (1) takes effect –
 - (a) on the day following the expiration of the exemption; and
 - (b) for a period of one year or such lesser period as may be specified by the Authority.

3. Refusal to grant, refusal to renew or revocation of exemption

(1) The Authority may refuse to grant an exemption under section 1(1) if –

- (a) the applicant has, in relation to the prepackaged food to which the application relates, failed to comply with any condition imposed under section 1(4) or 2(3A) within the past 2 years; or
- (b) the annual sales volume of the version of the prepackaged food to which the application relates in Hong Kong exceeded 30 000 units in any one of the past 2 years.

(2) The Authority may refuse to renew an exemption under section 2(1) if the applicant has, in relation to the prepackaged food to which the application relates, failed to comply with any condition imposed under section 1(4) or 2(3A) within the past 2 years.

(3) The Authority may revoke an exemption granted under section 1(1) or renewed under section 2(1) (“the exemption”) if –

- (a) the importer or manufacturer to whom the exemption has been granted (“the grantee”) has failed to comply with any condition imposed under section 1(4) or 2(3A); or