

立法會
Legislative Council

Ref : CB2/BC/1/08

LC Paper No. CB(2)569/08-09
(These minutes have been
seen by the Administration)

**Bills Committee on
Public Health and Municipal Services (Amendment) Bill 2008**

**Minutes of meeting
held on Thursday, 4 December 2008, at 3:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon Fred LI Wah-ming, JP (Chairman)
Hon WONG Yung-kan, SBS, JP
Hon Andrew CHENG Kar-foo
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Ting-kwong, BBS
Hon Cyd HO Sau-lan
- Member absent** : Dr Hon LEUNG Ka-lau
- Public Officers attending** : Item II
Prof Gabriel M LEUNG, JP
Under Secretary for Food & Health

Mrs Angelina CHEUNG FUNG Wing-ping
Principal Assistant Secretary for Food & Health (Food) 1

Dr LEE Siu-yuen
Assistant Director (Food Surveillance & Control)
Food and Environmental Hygiene Department

Ms Leonora IP Wan-yok
Senior Government Counsel
Law Drafting Division
Department of Justice

Miss Mandy NG Wing-man
Government Counsel
Law Drafting Division
Department of Justice

**Attendance by
invitation** : Item II

Consumer Council

Ms Rosa WONG
Head, Research & Trade Practices Division

Ms Tracy CHU
Research & Trade Practices Officer

Hong Kong Medical Association

Dr TSE Hung-hing
President

Hong Kong Food Council Ltd.

Mr Simon WONG Ka-wo
Chairman

Hong Kong & Kowloon Provision, Wine & Spirit Dealers
Association

Miss Phyllis CHEUK
Member

Democratic Party

Miss CHAN Shu-ying
Deputy Spokesman on Policy of Food Safety
& Environmental Hygiene

Federation of Hong Kong Industries

Mr George TSANG
Member

Mr Roger TAM
Manager

Hong Kong Suppliers Association Ltd.

Mr Albert TANG

Ms Frenda WONG

Kowloon Fruit & Vegetable Merchants Association Ltd.

Mr CHEUNG Chi-cheung

Mr YEUNG Chi-fai

Hong Kong Imported Vegetable Wholesale Merchants
Association

Mr YUEN Cheong
Chairman

Mr SZETO Chi-wa
Secretary

Merchants Association of First Wholesalers/Jobbery of
Imported Fresh Fruits & Vegetables Limited

Mr NG Wing-yan
Chairman

Mr HO Hoi-wai
Secretary

Hong Kong Federation of Restaurants & Related Trades

Mr CHU Chi-ming

Hong Kong Retail Management Association

Mr Peter JOHNSTON
Representative

Maxim's Caterers Ltd.

Mr Norman YUM
General Manager

Ms Gloria LIU
Quality Assurance Training and Development Manager
Group Quality Assurance

Association for Hong Kong Catering Services
Management

Mr LAU Kwong-choi
Vice Chairman

Ms HO Yuk-sim
Vice Chairman

Hong Kong Catering Industry Association

Mr Thomas WOO Chu
Vice President

Clerk in attendance : Miss Mary SO
Chief Council Secretary (2) 5

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Ms Alice LEUNG
Senior Council Secretary (2) 6

Ms Sandy HAU
Legislative Assistant (2) 5

Action

I. Confirmation of minutes

[LC Paper No. CB(2)371/08-09]

The minutes of the meeting held on 18 November 2008 were confirmed.

II. Meeting with deputations and the Administration

2. The Bills Committee deliberated (index of proceedings attached at **Annex I**).

3. The Bills Committee received views from the following organisations on the Public Health and Municipal Services (Amendment) Bill 2008 (the Bill)

Action

- (a) Consumer Council
[LC Paper No. CB(2)404/08-09(01)]
- (b) Hong Kong Medical Association
[LC Paper No. CB(2)374/08-09(01)]
- (c) Hong Kong Food Council Ltd
- (d) Hong Kong & Kowloon Provision, Wine & Spirit Dealers Association
- (e) Democratic Party
[LC Paper No. CB(2)430/08-09(01)]
- (f) Federation of Hong Kong Industries
[LC Paper No. CB(2)430/08-09(02)]
- (g) Hong Kong Suppliers Association Ltd
- (h) Kowloon Fruit & Vegetable Merchants Association Ltd
[LC Paper No. CB(2)476/08-09(01)]
- (i) Hong Kong Imported Vegetable Wholesale Merchants Association
- (j) Merchants Association of First Wholesalers/Jobbery of Imported Fresh Fruits & Vegetables Limited
- (k) Hong Kong Federation of Restaurants & Related Trades
- (l) Hong Kong Retail Management Association
[LC Paper No. CB(2)374/08-09(02)]
- (m) Maxim's Caterers Ltd.
- (n) Association for Hong Kong Catering Services Management
[LC Paper No. CB(2)430/08-09(03)]
- (o) Hong Kong Catering Industry Association
[LC Paper No. CB(2)430/08-09(04)]

4. The Bills Committee also noted the submissions received from the following organisations -

Action

- (a) Hong Kong College of Community Medicine
[LC Paper No. CB(2)374/08-09(03)]
- (b) Advisory Council on Food and Environmental Hygiene
[LC Paper No. CB(2)404/08-09(02)]
- (c) Hong Kong Doctors Union
[LC Paper No. CB(2)430/08-09(05)]

5. Members noted that all deputations were supportive of the Bill to better protect public health. Major views expressed by deputations are summarised in **Annex II**.

6. The Administration responded that concerns raised by deputations over the circumstances under which the new section 78B orders would be made, including the appeal period, and the amount of compensation that could be claimed under the new section 78H would be addressed in its papers to be submitted to the Bills Committee at its meeting scheduled for 11 December 2008.

III. Date of next meeting

- 7. The Bills Committee would next meet on 11 December 2008 at 4:30 pm.
- 8. There being no other business, the meeting ended at 5:25 pm.

Council Business Division 2
Legislative Council Secretariat
2 January 2009

**Proceedings of the meeting of the
Bills Committee on Public Health and Municipal Services
(Amendment) Bill 2008
on Thursday, 4 December 2008, at 3:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000133	Chairman	Confirmation of minutes of meeting held on 18 November 2008	
000134 - 000248	Chairman	Welcoming remarks	
000249 - 000631	Consumer Council	Presentation of views [LC Paper No. CB(2)404/08-09(01)]	
000632 - 000952	Hong Kong Medical Association	Presentation of views [LC Paper No. CB(2)374/08-09(01)]	
000953 - 001522	Hong Kong Food Council Hong Kong & Kowloon Provision, Wine & Spirit Dealers Association	Presentation of views	
001523 - 002014	Democratic Party	Presentation of views [LC Paper No. CB(2) 430/08-09(01)]	
002015 - 002446	Federation of Hong Kong Industries	Presentation of views [LC Paper No. CB(2)430/08-09(02)]	
002447 - 003023	Hong Kong Suppliers Association Ltd	Presentation of views	
003024 - 003351	Kowloon Fruit & Vegetable Merchants Association Ltd	Presentation of views [LC Paper No. CB(2)476/08-09(01)]	
003352 - 003917	Hong Kong Imported Vegetable Wholesale Merchants Association	Presentation of views	
003918 - 004300	Merchants Association of First Wholesalers / Jobbery of Imported Fresh Fruits & Vegetables Ltd	Presentation of views	
004301 - 004433	Hong Kong Federation of Restaurants & Related Trades	Presentation of views	
004434 - 004721	Hong Kong Retail Management Association	Presentation of views [LC Paper No. CB(2)374/08-09(02)]	

Time marker	Speaker	Subject	Action required
004722 - 004913	Maxim's Caterers Ltd	Presentation of views	
004914 - 005421	Association for Hong Kong Catering Services Management	Presentation of views [LC Paper No. CB(2)430/08-09(03)]	
005422 - 005730	Hong Kong Catering Industry Association	Presentation of views [LC Paper No. CB(2)430/08-09(04)]	
005731 - 010036	Chairman Admin	More time should be allowed for a person bound by a section 78B order to make an appeal to the Municipal Services Appeals Board	
010037 - 010729	Mr Tommy CHEUNG Admin	Concern over the wide power provided to the Director of Food and Environment Hygiene (DFEH) under the new section 78B(2)	
010730 - 011723	Mr Vincent FANG Admin	Compensation should also cover other loss suffered as a result of complying with a section 78B order. Lacking of enforcement over food smuggled from the Mainland	
011724 - 012447	Mr Andrew LEUNG Admin	Whether a food trader would be prosecuted for food tested to be problematic, even though the trade had exercised due diligence in procuring the food concerned from proper source	
012448 - 013944	Mr WONG Yung-kan Admin Chairman	Mr WONG Yung-kan's view that the Government should strengthen its liaison with the relevant Mainland authorities to combat the smuggling of fresh vegetables from non-registered farms in the Mainland	
013945 - 014817	Mr Tommy CHEUNG Chairman	Mr Tommy CHEUNG's view that compensation should be made automatically to the food traders bound by the section 78B order, if the results of food tests showed that the food concerned was not problematic	
014818 - 014920	Chairman Mr Vincent FANG Mr Tommy CHEUNG	The Administration's response to the deputations' views expressed at the meeting would be addressed in its papers to be submitted to the Bills Committee at its meeting scheduled for 11 December 2008	
014921 - 015002	Hong Kong Imported Vegetable Wholesale Merchants Association	Reiteration of its concern over the smuggling of fresh fruits and vegetables from non-registered sources in the Mainland	

Time marker	Speaker	Subject	Action required
015003 - 015101	Hong Kong Suppliers Association Ltd	Reiteration of its view that compensation should be automatically paid to the food trade if the results of the food tests revealed that the food concerned was not problematic	
015102 - 015446	Chairman Admin Kowloon Fruit and Vegetable Merchants Association Ltd	Concern over the problem of smuggling of Mainland fresh fruits and vegetables from non-registered sources through Man Kam To Checkpoint	
015447 - 015507	Chairman Admin Mr Tommy CHEUNG	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
2 January 2009

Bills Committee on Public Health and Municipal Services (Amendment) Bill 2008

Summary of views expressed by deputations

Part I : Major views expressed by the Consumer Council, the Advisory Council on Food and Environmental Hygiene and organisations from the medical sector

Name of deputation [LC Paper No. of Submission]	Major Views
Consumer Council [LC Paper No. CB(2)404/08-09(01)]	The Director of Food and Environmental Hygiene (DFEH) should issue guidelines on food recall for the trade to follow, such as setting up consumer hotlines and providing channels for return of products and compensation to affected consumers.
Advisory Council on Food and Environmental Hygiene [LC Paper No. CB(2)404/08-09(02)]	There is a need for the Centre for Food Safety (CFS) to act in a more proactive manner in monitoring new or emerging food contaminants and pathogens through better collection of intelligence from various sources.
Hong Kong Medical Association [LC Paper No. CB(2)374/08-09(01)]	Urges early implementation of the Bill.
Hong Kong College of Community Medicine [LC Paper No. CB(2)374/08-09(03)]	Considers it necessary to provide wide powers to DFEH under the new section 78B.
Hong Kong Doctors Union [LC Paper No. CB(2)430/08-09(05)]	In making the section 78B orders, due regard should be given to minimising economic hardship on small and medium enterprises.

Part II : Major views expressed by organisations from the food trade

Name of deputation [LC Paper No. of Submission]	Major Views
1. New section 78B - Additional powers in relation to food	
Federation of Hong Kong Industries [LC Paper No. CB(2)430/08-09(02)]	Strongly opposes that DFEH could make the new section 78B orders only if he has reasonable grounds to make the orders. The Administration should set up an independent body, similar to the UK Food Standard Agency, to make the orders.
Democratic Party [LC Paper No. CB(2)430/08-09(01)]	In view of the wide powers provided to DFEH under the new section 78B, guiding principles of the code of practice (CoP) to provide practical guidance in respect of the operation of the section should be spelt out in the Bill.
Association for Hong Kong Catering Services Management Ltd [LC Paper No. CB(2)430/08-09(03)]	DFEH should exercise prudence in exercising the powers under the new section 78B, having regard to the adverse impact on the catering trade. The Administration should only publicise that certain food supplied by a food establishment was problematic, after the results of food test have proved to be the case.
Hong Kong Retail Management Association [LC Paper No. CB(2)374/08-09(02)]	Appropriate checks and balances should be put in place to ensure prudent exercising of powers by DFEH under the new section 78B.
Hong Kong Food Council	Clear guidelines should be provided on the exercising of power by DFEH under the new section 78B. For instance, DFEH should make sure that the food on sale or supply in Hong Kong come from the same production line and batch number(s) and use the same ingredients from the same source as the food found to be problematic overseas, before making a section 78B order.
Maxim's Caterers Ltd	It is unclear whether DFEH would notify the trade before servicing of section 78B orders and publication in the Gazette, and that in doing so the food concerned have been tested to be problematic.

Name of deputation [LC Paper No. of Submission]	Major Views
Hong Kong Catering Industry Association	The CoP on the operation of new section 78B should not compromise the interests of the food trade.
2. New section 78G- Appeal to Municipal Services Appeals Board	
Association for Hong Kong Catering Services Management Ltd [LC Paper No. CB(2)430/08-09(03)]	The time required for the Municipal Services Appeal Board (MSAB) to consider the appeals should not be long.
Hong Kong Retail Management Association [LC Paper No. CB(2)374/08-09(02)]	A 14-day appeal period is too short, and should be extended to six months to allow more time for persons bound by section 78B orders to appeal.
Hong Kong Suppliers Association Ltd	It is questionable whether MSAB has the expertise to consider the appeals lodged by food traders bound by section 78B orders.
Hong Kong Federation of Restaurants & Related Trades	A 14-day appeal period is too short, and should be extended to one to two months to allow more time for persons bound by new section 78B orders to appeal. The membership of MSAB should include representatives from the food trade.
Maxim's Caterers Ltd	The appeal period should be extended to allow more time for persons bound by section 78B orders to make an appeal.
3. New section 78H - Compensation	
Federation of Hong Kong Industries [LC Paper No. CB(2)430/08-09(02)] Hong Kong Food Council Hong Kong Suppliers Association Ltd	The amount of compensation under the new section 78H should, apart from covering the market value of the food at the time of making the section 78B order, also cover other loss suffered by the person bound by the order arising as a direct result of compliance with the order, such as loss of goodwill and legal, storage and food testing costs incurred.

Name of deputation [LC Paper No. of Submission]	Major Views
Hong Kong & Kowloon Provision, Wine & Spirit Dealers Association	It is unclear whether the market value of the food referred to the wholesale or retail value of the food.
Democratic Party [LC Paper No. CB(2)430/08-09(01)]	The Administration should, apart from compensating the person bound by a section 78B order the market value of the food at the time of making the order, consider compensating that person an additional amount based on a percentage of the market value of the food at the time of making the order.
Kowloon Fruit & Vegetable Merchants Association Ltd Hong Kong Federation of Restaurants & Related Trades	Concurs with other organisations from the food trade.
Hong Kong Catering Industry Association	The Administration should reimburse the trade all costs incurred for complying with section 78B orders in the first instance. Should the food concerned be found to be problematic after food tests, the Administration could recover the money paid from the trade.
4. Other suggestions	
Association for Hong Kong Catering Services Management Ltd [LC Paper No. CB(2)430/08-09(03)]	CFS should assist the trade in testing new food products. Enforcement of the Bill should only apply to large food establishments, whereas small and medium food establishments should be educated on the need to ensure the food they supply is fit for human consumption, having regard to the adverse impact of the servicing of section 78B orders on the catering trade.
Hong Kong Catering Industry Association	The Administration should provide interest-free loans to help innocent traders whose businesses are adversely affected by the servicing of section 78B orders. The Government Laboratory should enhance its testing capacity and to publicise its test results for reference by the food trade.

Name of deputation [LC Paper No. of Submission]	Major Views
	The Administration should step up efforts on control of imported food and collection of intelligence on problem food.
Kowloon Fruit and Vegetable Merchants Association Ltd	CFS should step up monitoring of fruits imported into Hong Kong by requiring all fruits to be distributed through wholesale markets to enhance food traceability and conduct fruit testing at the wholesale markets.
Hong Kong Imported Vegetable Wholesale Merchants Association Merchants Association of First Wholesalers/Jobbery of Imported Fresh Fruits & Vegetables Ltd	CFS should step up control on vegetables imported from the Mainland.
Kowloon Fruit and Vegetable Merchants Association Ltd Merchants Association of First Wholesalers/Jobbery of Imported Fresh Fruits & Vegetables Ltd	Importers should not be held responsible if the food they imported is found to be problematic, if they could produce health certificates issued by health authorities of countries of origin to accompany their imports certifying that the food concerned is fit for human consumption.