

立法會

Legislative Council

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Bills Committee on Toys and Children's Products Safety (Amendment) Bill 2013

Background brief

Purpose

This paper provides information on the background of the Toys and Children's Products Safety (Amendment) Bill 2013 and members' relevant views and concerns raised at the Panel on Economic Development ("the Panel").

Background

Toys and Children's Products Safety Ordinance (Cap. 424)

2. The Toys and Children's Products Safety Ordinance (Cap. 424) ("the Ordinance") was enacted in 1992 to provide for safety standards for children's toys and safety standards for specified chattels used in association with children to enhance the safety of children. The Ordinance stipulates three sets of safety standards for toys, namely, International Voluntary Toy Safety Standard established by the International Committee of Toy Industries, European Standard EN71 established by the European Committee for Standardization, and ASTM F963 established by the American Society for Testing and Materials. As regards children's products, the Schedule to the Ordinance sets out the safety requirements for 13 specified types of children's products which are commonly used by infants and toddlers.

3. Under the Ordinance, a person commits an offence if he manufactures, imports or supplies toys or children's products that do not comply with any of the safety standards and requirements provided in the Ordinance. The maximum penalty for the offence is, on first conviction, a fine of \$100,000 and imprisonment for one year, and on subsequent conviction, a fine of \$500,000 and imprisonment for two years.

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4. Phthalates are commonly used as plasticizers in polyvinyl chloride (i.e. PVC) products. There have been public concerns over the possible health hazards posed to children by phthalates that may be contained in plasticized

materials in certain toys and children's products. Meanwhile, advanced economies such as the European Union, Australia, the United States, Canada and Singapore have imposed concentration limits of six types of phthalates. To ensure that Hong Kong's product safety regime is on par with those in advanced economies in protecting children from exposure to phthalates, and to safeguard Hong Kong against becoming the dumping ground for non-compliant products, the Administration proposes to impose similar controls on the maximum amount of six types of phthalates in certain toys and children's products through the Toys and Children's Products Safety (Amendment) Bill 2013 ("the Amendment Bill").

5. The Amendment Bill seeks to expand the application of the Ordinance to cover, in addition to toys and certain specified products, other products that are intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under four years of age and that contain any plasticized material.

Panel discussions

6. The Panel was consulted on the Amendment Bill on 26 November 2012. During the meeting, members queried whether a transitional period would be provided to facilitate relevant parties to prepare for the implementation of the legislation. The Administration advised that the new legislation would commence several months after it was passed by LegCo so that importers and retailers could make the necessary arrangements to comply with the new requirements; meanwhile, publicity and public education programmes would be launched to advise the public on the requirements.

7. Some members noted that Mainland suppliers might not be subject to the same restrictions on the use of phthalates as those to be introduced under the Amendment Bill. These members expressed concern that local importers would have fewer choices in sourcing their merchandise. The Administration advised that the impact of the new legislation on local importers would be insignificant since substitute chemicals for phthalates were available.

8. Members also queried whether importers who had signed contracts with overseas suppliers for import of products that did not comply with the new statutory requirements, would commit an offence under the proposed legislation. The Administration confirmed that any person who imported non-compliant products into Hong Kong after the commencement of the proposed legislation, would commit an offence. The Administration also advised that the relevant trade associations had been given detailed explanation on the requirements in proposed legislation. In response to members' queries whether tighter checks would be conducted on products imported from places with loose control on phthalates, the Administration advised that enforcement actions would be carried out having regard to the risk level of the imported products.

9. As regards members' concern on whether all children's products, irrespective of whether they were meant for children aged below 48 months, were subject to the same phthalates limit as specified in the Amendment Bill, the Administration advised that enforcement actions on products not falling under the Amendment Bill would be based on the standards of the exporting jurisdictions who, like the European Union, had imposed different phthalates concentration limits for different products. Phthalates in consumer products other than toys and children's products, such as healthcare products and cosmetics, were controlled under the Consumer Goods Safety Ordinance (Cap. 456) and enforcement actions could be undertaken taking into account the relevant standards adopted by the respective overseas jurisdictions.

Latest Development

10. The Amendment Bill was published in the Gazette on 12 July 2013 and read the first time at the Council meeting of 17 July 2013. At the House Committee held on 4 October 2013, members agreed that a bills committee should be formed to study the Amendment Bill in detail.

Relevant papers

11. The links to the relevant papers are as follows –

Legislative Council Brief for Toys and Children's Products Safety (Amendment) Bill 2013

http://www.legco.gov.hk/yr12-13/english/bills/brief/b23_brf.pdf

Paper on public consultation on proposals to impose Concentration Limits of Phthalates in Toys and Child Care Products

<http://www.legco.gov.hk/yr12-13/english/panels/edev/papers/edev1126cb1-189-5-e.pdf>

Background brief on regulating toys and children's products safety

<http://www.legco.gov.hk/yr12-13/english/panels/edev/papers/edev1126cb1-189-6-e.pdf>

Minutes of the Panel meeting held on 26 November 2013

<http://www.legco.gov.hk/yr12-13/english/panels/edev/minutes/edev20121126.pdf>

Council Business Division 2

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