

立法會
Legislative Council

LC Paper No. LS62/13-14

**Paper for the House Committee Meeting
on 20 June 2014**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 13 June 2014**

Tabling in LegCo : Council meeting of 18 June 2014

Amendment to be made by : 2nd Council meeting in the next session (or the 1st Council meeting after 21 days from that 2nd Council meeting if extended by resolution)

**Food and Drugs (Composition and Labelling)
(Amendment) (No. 2) Regulation 2014**

(L.N. 90)

The Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) (the principal Regulations) provides for, inter alia, the Nutrition Labelling Scheme (the NL Scheme) for prepackaged food. However, the NL Scheme does not cover formula products and prepackaged food for infants and young children under the age of 36 months as the Codex Alimentarius Commission (Codex) has established different standards for these foods.

2. The main purposes of L.N. 90 are to amend the principal Regulations to provide for -

(a) The standards of composition (i.e. nutritional composition) of infant formula

3. The definition of infant formula covers products that are intended for consumption as a substitute for human breast milk that is specially manufactured to satisfy, by itself, the nutritional requirements of persons of any age up to and including 12 months, until the introduction of appropriate complementary feeding. The definition also covers products which are marked or labelled as "infant formula" or "嬰兒配方產品", or with any other words of similar meaning.

4. Schedule 1 to the principal Regulations is amended to provide for the energy and nutritional composition of infant formula and the respective level of

energy and each nutrient within the range specified in the relevant Codex Standard as specified in the new Divisions 1 and 2 of Part IV of Schedule 1.

(b) The nutrition labelling requirement of infant formula, follow-up formula and prepackaged food for infants and young children

5. The definition of follow-up formula covers products that are -

- (i) represented as a replacement for human breast milk or infant formula, and intended for consumption as a liquid element in a progressively diversified diet by persons of any age from 6 months to under 36 months; or
- (ii) marked or labelled as "follow-up formula" or "較大嬰兒及幼兒配方產品", or with any other words of similar meaning.

6. As for prepackaged food for infants and young children, the definition covers prepackaged food intended for consumption by persons of any age under 36 months not including infant formula or follow-up formula.

7. For infant formula, the new section 1(1) of Schedule 6A provides for labelling of such food with energy value and 29 nutrients, following the relevant Codex Standards.

8. As regards follow-up formula, the new section 1(3) of Schedule 6A provides for labelling of such food with energy value and 25 nutrients, following the relevant Codex Standard.

9. With respect to prepackaged food for infants and young children, the new section 1(4) of Schedule 6A provides for labelling of such food with energy value and vitamins A and D if they are added to the food, by making reference to the relevant Codex Standards.

(c) Items that are exempt from certain requirements

10. The following items are exempt from the nutritional composition or nutrition labelling requirements -

- (i) nutritional composition and nutrition labelling requirements for formula for special medical purposes; and
- (ii) nutrition labelling requirements for products with small package size.

(d) Offences and penalties for non-compliance with the standards or requirements

11. Any person who advertises for sale, sells or manufactures for sale any infant formula, follow-up formula or prepackaged food for infants and young children that is not marked or labelled in compliance with the nutrition labelling requirements, commits an offence and is liable to a fine at level 5 (i.e. \$50,000) and to imprisonment for 6 months. The penalty is in line with that relating to the NL Scheme (see regulation 5 of the principal Regulations).

12. L.N. 90 comes into operation on the expiry of 18 months beginning on the day on which it is published in the Gazette except the provisions relating to follow-up formulae and prepackaged food for infants and young children, which come into operation on the expiry of 24 months instead.

13. Members may wish to refer to the LegCo Brief (File Ref: FH CR 4/3231/13) issued by the Food and Health Bureau and Food and Environmental Hygiene Department in June 2014 for background and further information.

14. According to paragraph 41 of the LegCo Brief, the Administration launched a two-month public consultation exercise from 20 November 2012 to seek the views of the public on the legislative proposals and received strong support. Some respondents in the public consultation exercise urged that the proposals should be enacted as soon as possible to protect the health of infants and young children.

15. As advised by the Clerk to the Panel on Food Safety and Environmental Hygiene (the FSEH Panel), the FSEH Panel and the Panel on Health Services held a joint meeting on 20 November 2012 to discuss with the Administration and meet with deputations for views on the regulation of formula products and foods for infants and young children. On 12 March 2013, the FSEH Panel was consulted on the legislative proposals to amend Cap. 132W to prescribe nutritional composition for infant formula, and nutrition labelling for infant formula, follow-up formula and foods intended for infants and young children under the age of 36 months. While members were in general supportive of the proposed legislative proposals, some members expressed concern that the proposed nutritional labelling requirement of "1+33" for infant formula as compared to the "1+29" (i.e. energy and 29 nutrients) requirement specified by the Codex Alimentarius Commission might constitute a possible trade barrier. Members expressed diverse views on the length of the grace period. Concerns were also raised about the proposed definitions of infant formula and follow-up formula, the exemption arrangement for certain types of formula milk products, and regulation of health and nutritional claims made in formula milk advertisements.

**Import and Export (General) Regulations
(Amendment of Schedules) Order 2014**

(L.N. 91)

**Import and Export (Fees) (Amendment) (No. 2)
Regulation 2014**

(L.N. 92)

16. L.N. 91 removes "textiles" from the list of prohibited articles in Schedules 1 and 2 to the Import and Export (General) Regulations (Cap. 60A) so that "textiles" are no longer subject to import and export licensing requirements under sections 6C and 6D respectively of the Import and Export Ordinance (Cap. 60) (IEO). L.N. 91 also removes specified textiles products (i.e. cut-and-sewn garments), their associated processes and the specified export place (i.e. the United States of America) from Part 1 of Schedule 5 so that cut-and-sewn garments are no longer subject to the production notification requirement under section 6AB of IEO.

17. L.N. 92 amends the fees specified in the Schedule to the Import and Export (Fees) Regulations (Cap. 60B) as follows -

Item in the Schedule	Existing Fees	Proposed Fees under L.N. 92
1. (c) In respect of textiles-		
(i) application for issue of consignment specific export licence (Form 4 TIC 353)	44	No Fee
(vii) application for issue of consignment specific import licence (Form 7 TRA 23)	45	No Fee
13. Annual fee for any period beginning on or after 25 June 2007 for person registered as textiles trader under Cap. 60A	349	61
13A. Where an import notification or an export notification is delivered on paper under Cap. 60A by a person-	2.9	No Fee
(a) who is registered as a textiles trader on or after 25 June 2007; or		
(b) who renews his registration as a textiles trader on or after 25 June 2007		
14. Fee payable when a production notification is lodged-		
(a) where the production notification is lodged on paper (Form TRA 579)	66	No Fee
(b) where the production notification is lodged using services provided by a specified body	47	No Fee

18. Members may wish to refer to the LegCo Brief issued by Trade and Industry Department and Commerce and Economic Development Bureau in June 2014 (File ref.: CR EIC 110/10/2/19) for further information on L.N. 91 and 92.

19. Both L.N. 91 and L.N. 92 come into operation on 21 November 2014.

20. According to paragraph 17 of the LegCo Brief, the Administration consulted the Textiles Advisory Board. The Board supports the further liberalization measures.

21. As advised by the Clerk to the Panel on Commerce and Industry, at the meeting of the Panel on 18 February 2014, the Administration briefed members on the proposal to further relax the Hong Kong Textiles Control System (i.e. measures such as Licensing and Notification Requirements and the Production Notification Requirement mentioned in paragraph 3 of the LegCo Brief) and the associated legislative amendments. The Panel supported in principle the further liberalization measures.

Solicitors (General) Costs (Amendment) Rules 2014

(L.N. 93)

Solicitors (General) Costs (Amendment) Rules 2013

Corrigendum

22. L.N. 93 is made by the Costs Committee under section 74 of the Legal Practitioners Ordinance (Cap. 159) subject to the prior approval of the Chief Justice to repeal paragraph 1 of the Third Schedule to the Solicitors (General) Costs Rules (Cap. 159G), which provides for costs for copying documents, and substitutes it with a new paragraph 1 to -

- (a) remove obsolete types of copies (such as stencilled or carbon copy);
- (b) provide that copies may be provided in the form of "photographic copy, printed (including laser printed) copy or scanned printed copy"; and
- (c) specify the costs for providing copies printed in black ink or colour ink and in different quantities,

and to introduce a new paragraph 6A to the Third Schedule, which provides that for the purpose of the new paragraph 1, if two or more pages of documents are reduced in size and printed on one page, the costs for copying is to be charged as one page.

23. According to paragraph 2 of the LegCo Brief issued by the Law Society of Hong Kong (The Law Society) on 13 June 2014 and the Corrigendum, the Solicitors (General) Costs (Amendment) Rules 2013 published in the Gazette on 21 June 2013 as Legal Notice No. 110 of 2013 (L.N. 110 of 2013) were not made by the Costs Committee under section 74 of Cap. 159. Accordingly, a fresh set of amendment Rules has now been made by the Costs Committee under that section, as now set out in L.N. 93.

24. The amendments to the Third Schedule to Cap. 159G proposed in L.N. 110 of 2013 are the same as those set out in L.N. 93.

25. L.N. 93 comes into operation on a day to be appointed by the President of The Law Society by notice published in the Gazette.

26. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Subcommittee on L.N. 110 of 2013 reported its deliberations to the House Committee at its meeting on 18 October 2013. In gist, L.N. 110 of 2013, which were made by the Council of The Law Society instead of by the Costs Committee as required under Cap. 159, had not been validly made. Members also noted that the Administration had proposed three options to deal with the problem and the majority of the members of the Subcommittee supported the option of publishing a new set of rules to be made by the Costs Committee with a Corrigendum in the Gazette to explain the error. Accordingly, a fresh set of amendment rules has now been made by the Costs Committee under that section and it is published as the Solicitors (General) Costs (Amendment) Rules 2014 (L.N. 93 of 2014).

Concluding Observations

27. No difficulties have been identified in the legal and drafting aspects of the above items of subsidiary legislation.

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