

立法會
Legislative Council

LC Paper No. CB(2)520/14-15
(These minutes have been seen
by the Administration)

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

**Minutes of meeting
held on Tuesday, 14 October 2014, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon Alice MAK Mei-kuen, JP (Chairman)
Hon Vincent FANG Kang, SBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Dr Hon LEUNG Ka-lau
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP
Hon TANG Ka-piu, JP
- Member absent** : Hon Steven HO Chun-yin
- Public Officers attending** : Item I
Mr Jeff LEUNG Wing-yan
Principal Assistant Secretary for Food and Health (Food) 1

Dr HO Yuk-yin, JP
Consultant (Community Medicine) (Risk Assessment
and Communication)
Centre for Food Safety, Food and Environmental
Hygiene Department

Dr Raymond HO Lei-ming
Principal Medical Officer (Risk Management)
Centre for Food Safety, Food and Environmental
Hygiene Department

Dr Allen CHAN Chi-wai
Senior Medical Officer (Risk Assessment)
Centre for Food Safety, Food and Environmental
Hygiene Department

Mr NG Ping-wah
Senior Superintendent (Centre for Food Safety) 2
Centre for Food Safety, Food and Environmental
Hygiene Department

Mr HO Kwok-wai
Scientific Officer (Nutrition Labelling)
Centre for Food Safety, Food and Environmental
Hygiene Department

Miss Elaine NG Pui-kei
Senior Government Counsel
Department of Justice

Miss Shirley LI Kwan-ting
Government Counsel
Department of Justice

**Clerk in
attendance** : Ms Alice LEUNG
Chief Council Secretary (2) 2

**Staff in
attendance** : Miss Winnie LO
Assistant Legal Adviser 7

Miss Karen LAI
Council Secretary (2) 6

Ms Camy YOONG
Clerical Assistant (2) 2

Action

I. Meeting with the Administration

[LC Paper Nos. CB(2)2070/13-14(05), CB(2)2070/13-14(06), CB(2)2345/13-14(01), Legislative Council Brief File Ref: FH CR 4/3231/13, L.N. 90 of 2014, LC Paper No. LS62/13-14 and CB(2)1933/13-14(02)]

1. The Subcommittee deliberated (index of proceedings attached at **Annex**).

Follow-up actions required of the Administration

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2. The Subcommittee requested the Administration to -
 - (a) in respect of the surveys on infant formula products conducted by the Centre for Food Safety in 2012, provide detailed information about the survey including types of infant formula products surveyed, source countries supplying the surveyed infant formula products, and the test results on the nutrient contents of infant formula products (including whether or not the iodine content and other nutrient contents conforming to the international standards prescribed by the Codex Alimentarius Commission ("Codex"));
 - (b) consider members' view that in addition to the information of the results of the surveys on the nutrient contents of the formula products conducted between 2012 and 2013, it would be desirable for the Administration to provide information on the latest market situation to reflect the overall compliance of the formula products with the Codex standards;
 - (c) provide details of, in a table format, the penalties for not conforming to the nutritional composition and labelling requirements for food products, and the penalties for contravening the relevant legislation governing food for sale in respect of its fitness for human consumption;
 - (d) regarding the proposed amended section 5(1B) which provided that "any person who, not being the manufacturer or packer originally responsible for so marking or labelling the food or drug, alters, removes or obliterates the marking or labelling of any food or drug marked or labelled for the purposes of regulation 4, 4A, 4B or 4C commits an offence and is liable to be a fine at level 5 and to imprisonment for 6 months", provide a

Action

clarification as to whether persons who were authorized by the manufacturer or packer originally responsible for marking or labelling the formula products would be liable to an offence under this provision. If the answer was affirmative, whether the Administration would consider proposing amendment to the effect that the persons authorized to alter, remove or obliterate the marking or labelling of formula products would not commit an offence;

- (e) provide information on (i) fluoride content of tap water in Hong Kong; (ii) the advice sought from dentists regarding the requirement on fluoride content in respect of the nutrition labelling of infant formula products; and (iii) the fluoride content for infant formula products on sale in Hong Kong and the fluoride content of tap water of the source countries supplying the infant formula products, where available; and
- (f) in respect of the new section 1(2) of Schedule 6A, respond to members' suggestion that the infant formula products are required to be marked or labelled with a statement indicating the recommended daily dosage limit of fluoride to alert consumers about the risk of dental fluorosis.

(Post-meeting note: The Chinese version of the Administration's written response [LC Paper CB(2)96/14-15(02)] was tabled at the meeting held on 20 October 2014.)

II. Any other business

3. The Chairman said that as agreed at the Subcommittee meeting on 2 July 2014, she would move a proposed resolution to extend the scrutiny period of the Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014 ("the Amendment Regulation") at the first Council meeting of the 2014-2015 session, which would be held on 15 October 2014. Members noted that if the motion could be dealt with at the said Council meeting, the scrutiny period of the Amendment Regulation would be extended to the Council meeting of 12 November 2014. However, if the motion could not be moved before the expiry of the 28 days' scrutiny period (i.e. the Council meeting of 22 October 2014), the period for amending the Amendment Regulation would expire at the Council meeting of 22 October 2014.

Action

4. The Chairman said that the next meeting would be held on 17 October 2014 to continue the scrutiny of the Amendment Regulation.

(Post-meeting note: To avoid clashing with the continuation of the Council meeting on the same day, with the concurrence of the Chairman, the meeting scheduled for 17 October 2014 was cancelled. The Subcommittee subsequently held another meeting on 20 October 2014.)

5. There being no other business, the meeting ended at 4:28 pm.

Council Business Division 2
Legislative Council Secretariat
23 December 2014

**Proceedings of the meeting of the
Subcommittee on Food and Drugs (Composition and Labelling)
(Amendment) (No. 2) Regulation 2014 on Tuesday, 14 October 2014, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action Required
000309 - 000552	Chairman	<p>The Chairman's opening remarks regarding extension of the scrutiny period for the Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014 ("the Amendment Regulation").</p> <p>The Administration's response to issues raised by members and deputations at meetings held on 2 July and 22 July 2014 [CB(2)2070/13-14(06) and CB(2)2345/13-14(01)].</p>	
000553 - 001022	Chairman Dr Elizabeth QUAT Admin	Dr Elizabeth QUAT's enquiries and the Administration's response about the regulation of the formula products purchased directly from overseas via online purchasing activities.	
001023 - 001334	Chairman Mr Vincent FANG Admin	<p>Mr Vincent FANG's reiteration of his concerns about the difficulties of traders of infant formula products and enquiry about whether the Administration would provide the same grace period of 24 months for infant formula, follow-up formula and prepackaged food for infants and young children.</p> <p>The Administration's explanation of its stance in providing a shorter grace period of 18 months for infant formula to protect infants' health.</p> <p>Mr Vincent FANG's indication of his intention to propose an amendment to provide the same grace period of 24 months for infant formula, follow-up formula and prepackaged food for infants and young children.</p>	
001335 - 001811	Chairman Admin	The Chairman's concerns and the Administration's response regarding whether the traders of infant formula products would face difficulties in conforming to the standards of the Codex Alimentarius Commission ("Codex standards"). The	

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		Administration explained that according to the study performed by the Centre for Food Safety ("CFS"), more than 70% of the tested infant formula products conformed to the proposed nutrition and labelling requirements.	
001812 - 002327	Chairman Mr Vincent FANG Admin	Mr Vincent FANG's enquiries and the Administration's response on the survey conducted by CFS on infant formula products from May to September 2012 and whether there would be any possible adverse impacts on the health of infants if the same grace period of 24 months was provided for infant formula, follow-up formula products and the prepackaged food for infants and young children. The Administration's advice that the provisional draft of the technical guidance notes had been issued to the trade to facilitate their compliance with the Codex standards.	
002328 - 002802	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's views that if a longer grace period of 24 months would be proposed for infant formula, the Administration should provide detailed justifications for such proposal.</p> <p>The Administration's response that the finding of iodine deficiency in some infant formula, as revealed in a survey conducted by CFS in 2012, underlined the need to impose regulatory control urgently to protect the health of infants and young children. In the light of this, a shorter grace period of 18 months was proposed for infant formula.</p>	
002803 - 003252	Chairman Admin	The Chairman's enquiries and the Administration's response regarding whether the surveys conducted by CFS could reflect the latest market situation in respect of the compliance of formula products with the Codex standards, in particular the iodine content of infant formula.	
003253 - 003552	Chairman Mr Vincent FANG Admin	Mr Vincent FANG's concerns and the Administration's response on whether the surveys on iodine content were mainly conducted on infant formula products imported from Japan. Given that infant formula products from Japan mostly	

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		contained a lower level of iodine, Mr FANG's request for the Administration to provide further information regarding the source countries of the surveyed formula products to accurately reflect the compliance situation.	
003553 - 004208	Chairman Dr Helena WONG Admin	Dr Helena WONG's concerns and the Administration's response regarding the tolerance limits for the proposed nutrition labelling of infant formula, follow-up formula and prepackaged food for infants and young children.	
004209 - 004245	Chairman Mr Vincent FANG Admin	<p>At the request of Mr Vincent FANG and the Chairman, the Administration agreed to provide detailed information about the surveys on infant formula products conducted by CFS in 2012, including types of infant formula products surveyed, source countries supplying the surveyed infant formula products, and the test results on the nutrient contents of infant formula products (including whether or not the iodine content and other nutrient contents conforming to the international standards prescribed by the Codex standards).</p> <p>The Administration also agreed to consider members' view that in addition to the information of the results of the surveys conducted between 2012 and 2013, it would be desirable for the Administration to provide information on the latest market situation to reflect the overall compliance of the formula products with the Codex standards.</p>	<p>Admin (paragraph 2(a) of the minutes refers)</p> <p>Admin (paragraph 2(b) of the minutes refers)</p>
004246 - 004709	Chairman Admin Dr Helena WONG	Legislative timetable and the dates for giving notice for amendments.	
<i>Examination of the provisions of the Amendment Regulation</i>			
004710 - 010002	Chairman Admin	Sections 1 to 7 of the Amendment Regulation	
010003 - 010436	Chairman Dr Helena WONG Admin	<p><u>Section 8 of the Amendment Regulation</u></p> <p>Dr Helena WONG's views that the maximum penalty level provided under the proposed new subsection (1AC) of regulation 5 of the Food and Drugs (Composition and Labelling)</p>	

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		<p>Regulations (Cap. 132W) ("the principal Regulations") should be raised from level 5 to level 6 so as to achieve sufficient deterrent effect. Her indication that she had the intention to move an amendment to this effect if the scrutiny period could be extended to 12 November 2014 by resolution. Her urge for the Administration to conduct a review of the penalty levels for offences related to food safety.</p> <p>The Administration's response that in determining the penalties for non-compliance with the Amendment Regulation, it had taken into account the relativity between such penalties and others relating to the food labelling requirements. The proposed new subsection (1AC) of regulation 5 of the principal Regulations was appropriate and in line with that in the existing legislation.</p> <p>At the request of Dr WONG, the Administration agreed to provide details of, in a table format, the penalties for not conforming to the nutritional composition and labelling requirements for food products, and the penalties for contravening the relevant legislation governing food for sale in respect of its fitness for human consumption.</p>	<p>Admin (paragraph 2(c) of the minutes refers)</p>
010437 - 010814	Chairman Ms Cyd HO Admin	Ms Cyd HO's concerns and the Administration's response on the labelling requirements for iodine, as specified in the proposed new section 1 of Schedule 6A.	
010815 - 011035	Chairman Mr WONG Ting-kwong Admin	Discussion on the proposed penalty for non-compliance of the nutrition labelling requirements under the Amendment Regulation.	
011036 - 012025	Chairman Admin	<p>Enquiries of the Chairman and the Administration's response on the drafting of the proposed amended regulation 5(1B).</p> <p>At the request of the Chairman, the Administration agreed to provide clarification as to whether persons who were authorized by the manufacturer or packer originally responsible for making or labelling the formula products would be liable to an</p>	<p>Admin (paragraph 2(d) of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>offence under this provision. If the answer was affirmative, whether the Administration would consider proposing amendment to the effect that the persons authorized to alter, remove or obliterate the marking or labelling of formula products would not commit an offence.</p>	
012026 - 012408	Chairman Admin	Section 9 of the Amendment Regulation	
012409 - 012633	Admin Chairman Dr LEUNG Ka-lau	<p><u>Section 10 of the Amendment Regulation</u></p> <p>Discussion on the appropriateness of using "在醫生指示下使用" as the Chinese rendition of the words "USE UNDER MEDICAL SUPERVISION" appeared in the proposed new section 1(b) of Schedule 1A.</p>	
012634 - 012947	Chairman Ms Cyd HO Admin	<p><u>Section 11 of the Amendment Regulation</u></p> <p>In response to Ms Cyd HO's concern, the Administration's advice that soya based formula would be under the regulation if it fell under the definition of infant formula or follow-up formula.</p>	
012948 - 013003	Admin	Section 12 of the Amendment Regulation	
013004 - 015304	Chairman Admin Dr Helena WONG Dr KWOK Ka-ki	<p><u>Section 13 of the Amendment Regulation</u></p> <p>Dr Helena WONG's and Dr KWOK Ka-ki's concerns and the Administration's response regarding the presentation of fluoride content of infant formula on nutrition labels stipulated in the proposed new section 1(2) of Schedule 6A with a view to alerting parents about the risk of dental flourosis to infants.</p> <p>At the request of Dr Helena WONG, the Administration agreed to provide information on (i) the fluoride content of tap water in Hong Kong; (ii) the advice sought from dentists regarding the requirement on fluoride content in respect of the nutrition labelling of infant formula products; and (iii) the fluoride content for infant formula products on sale in Hong Kong and the fluoride content of tap water of the source countries supplying the</p>	<p>Admin (paragraph 2(e) of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>infant formula products, where available.</p> <p>In respect of the proposed new section 1(2) of Schedule 6A, the Administration agreed to respond to Dr KWOK Ka-ki's suggestion that the infant formula products were required to be marked or labelled with a statement indicating the recommended daily dosage limit of fluoride to alert consumers about the risk of dental fluorosis.</p>	<p>Admin (paragraph 2(f) of the minutes refers)</p>
015305 - 015644	Admin	The Administration's further elaboration on the definition of infant formula provided under section 3 of the Amendment Regulation.	
015645 - 015909	Chairman Ms Cyd HO Admin	Ms Cyd HO's concerns and the Administration's response about the declarations required to be printed on the labels of milk products and the nutrition requirements for infant formula products under the Amendment Regulation.	
015910 020019	Chairman Admin	<p>Date of the next meeting.</p> <p>The Chairman's closing remarks.</p>	