

# **立法會**

## ***Legislative Council***

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### **Paper for the House Committee meeting on 16 June 2017**

### **Report of Subcommittee on Toys and Children's Products Safety Ordinance (Amendment of Schedules 1 and 2) Notice 2017**

#### **Purpose**

This paper reports on the deliberations of the Subcommittee on Toys and Children's Products Safety Ordinance (Amendment of Schedules 1 and 2) Notice 2017.

#### **Background**

##### Toys and Children's Products Safety Ordinance

2. Under the Toys and Children's Products Safety Ordinance (Cap. 424), no person shall manufacture, import or supply toys and children's products listed in Schedule 2 to the Ordinance ("Schedule 2 products") unless they comply with all the applicable requirements contained in at least one of the safety standards (international standards or standards adopted by major economies) specified in Schedules 1 and 2 to the Ordinance respectively. Schedule 1 specifies the standards for toys and Schedule 2 specifies the standards for children's products.

3. The Administration keeps in view updates or amendments to the safety standards made by the standards institutions concerned and, as a regular exercise, applies up-to-date, operative versions to products supplied in Hong Kong. Under section 37 of Cap. 424, the Secretary for Commerce and Economic Development may amend both Schedules by notice published in the Gazette.

4. The specified standards for toys and for five classes of Schedule 2 products, namely "bunk beds for domestic use", "child safety barriers for

domestic use", "children's high chairs and multi-purpose high chairs for domestic use", "playpens for domestic use" and "wheeled child conveyances", have been updated or amended by the standards institutions concerned. The Administration intends to apply the updated standards in Hong Kong by amending Schedules 1 and 2 to the Ordinance.

### The subsidiary legislation

5. The Secretary for Commerce and Economic Development has made L.N. 102 under section 37 of Cap. 424 to update certain safety standards in Schedules 1 and 2 to Cap. 424 for toys and certain children's products as mentioned in paragraph 4 above. The legislative proposals are set out in paragraphs 5 of the Legislative Council Brief (File Ref: CITB CR 08/18/3) issued by the Administration in May 2017.

### **Commencement**

6. L.N. 102 was gazetted on 19 May 2017 and tabled in the Legislative Council on 24 May 2017. The notice will come into operation on 1 April 2018.

### **The Subcommittee**

7. At the House Committee meeting held on 26 May 2017, Members agreed that a subcommittee should be formed to examine the subsidiary legislation in detail. The membership list of the Subcommittee is in **Appendix**.

8. Under the chairmanship of Hon WONG Ting-kwong, the Subcommittee held one meeting with the Administration on 6 June 2017.

### **Deliberations of the Subcommittee**

9. The Subcommittee generally supports the objective of the subsidiary legislation. Mr WONG Ting-kwong, Chairman of the Subcommittee, mentions that the trade concerned supports the updating of safety standards as prescribed in the subsidiary legislation. He understands that some organizations have already adopted the new safety standards in their business.

10. Dr Fernando CHEUNG comments that the Administration seems to have taken a rather long time to give effect to the new safety standards in Hong Kong, following their publication by international standards institutions. Dr CHEUNG expresses concerns that Hong Kong may risk being a dumping

ground for products that do not meet the latest safety requirements if other countries adopt the new safety standards ahead of Hong Kong.

11. The Administration explains that steps are taken regularly to update the toys and children's products safety standards in Hong Kong after new standards are published. However, lead time is required to consult stakeholders and to initiate the necessary legislative process to give effect to the latest product safety standards in Hong Kong. The Administration points out that the new or updated standards included in the present exercise were published by the relevant standard institutions in 2015 or 2016, except for "BS EN 71-13:2014" (which specifies the requirements on the use of substances and mixtures in olfactory board games, cosmetics kits, gustative games and supplementary sets), that was published in 2014. The Administration informs the Subcommittee that a longer time was needed before incorporating this new part into Cap. 424 because more time was required for the laboratories to develop complementary test methods and acquire the necessary equipment and standard reference materials to provide testing services. The Administration undertakes to carry out updating exercises regularly and expeditiously.

12. Dr Fernando CHEUNG points out that the Child Fatality Review conducted by the Director of Social Welfare has attributed the use of unsafe products as one of the causes of children's death. He mentions that the Review has recommended, among other measures, that the Administration should step up control on the import and sale of folding tables that have no safety locking device. Dr CHEUNG queries whether the Customs and Excise Department ("C&ED") has followed up on the Review's findings and recommendations.

13. The Administration responds that C&ED is aware of the findings and recommendations of the Child Fatality Review and has taken appropriate follow-up actions.

14. Dr CHIANG Lai-wan notes that C&ED has conducted 5 173 product safety-related inspections between 2014 and April 2017, and has identified 136 cases of non-compliance with the various safety standards, resulting in 12 indictments. Dr CHIANG queries the reasons for the low indictment rate. She also queries how consumers could distinguish toys and children's products in retail market that may not meet the product safety standards as prescribed in Cap. 424.

15. The Administration explains that many of the non-compliance cases involved minor breaches, such as lack of bilingual warning labels and/or identification markings, against which C&ED has served warning notices. For more serious breaches, prohibition notices have been issued to traders to prohibit them from supplying the concerned unsafe products. For structurally unsafe products, or repeated offenders, prosecution would be initiated. The

Administration further explains that apart from carrying out inspections, investigations, and law enforcement actions, education and publicity are also important tools to prevent consumers from buying products that do not meet the prescribed safety standards. For instance, the Consumer Council regularly tests popular toys and children's products and publicizes its findings with advice to consumers. C&ED organizes briefings and seminars for importers and retailers about the latest product safety standards and requirements. C&ED would also initiate investigations if there are media reports about toys and children's products in the market that may have safety issues.

16. The Subcommittee has completed the scrutiny of L.N. 102 and supports the amendments contained in L.N. 102.

### **Advice sought**

17. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 4  
Legislative Council Secretariat  
14 June 2017

**Subcommittee on Toys and Children's Products Safety Ordinance  
(Amendment of Schedules 1 and 2) Notice 2017**

**Membership List**

<b>Chairman</b>	Hon WONG Ting-kwong, SBS, JP
<b>Members</b>	Dr Hon KWOK Ka-ki
	Hon Christopher CHEUNG Wah-fung, SBS, JP
	Dr Hon Fernando CHEUNG Chiu-hung
	Dr Hon Elizabeth QUAT, JP
	Dr Hon CHIANG Lai-wan, JP
	Hon SHIU Ka-fai
	Hon HUI Chi-fung
	(Total : 8 members)
<b>Clerk</b>	Mr Daniel SIN
<b>Legal Adviser</b>	Mr YICK Wing-kin