

**立法會**  
**Legislative Council**

LC Paper No. CB(4)904/18-19

Ref.: CB4/SS/7/18

**Paper for the House Committee meeting on 24 May 2019**

**Report of Subcommittee on Toys and Children's Products Safety  
Ordinance (Amendment of Schedules 1 and 2) Notice 2019**

**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 2019 (L.N. 49 of 2019) ("Notice").

**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 any one of the safety standards (international standards or standards adopted by major economies) specified in Schedules 1 and 2 to Cap. 424 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 ("SCED") 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 "child safety barriers for domestic use", "children's cots for domestic use", "children's high chairs and multi-purpose high chairs for domestic use", "children's paints" and "playpens for domestic use", have been updated or amended by the standards institutions concerned. The Administration proposes to apply the updated versions, and for this purpose, SCED has made the Notice.

### **The Notice**

5. The Notice, gazetted on 29 March 2019 and tabled in the Legislative Council on 3 April 2019, was made by SCED under section 37 of Cap. 424 to update certain safety standards for toys and five classes of Schedule 2 products as mentioned in paragraph 4 above. The revised safety standards are set out in paragraph 5 of the Legislative Council Brief issued by the Administration in March 2019.

6. The Notice will come into operation on 1 October 2019.

### **The Subcommittee**

7. At the House Committee meeting held on 12 April 2019, Members agreed that a subcommittee should be formed to examine the subsidiary legislation in detail. The membership list of the Subcommittee is in **Appendix**. To allow sufficient time for the Subcommittee to study the Notice, the Chairman of the House Committee gave notice to move a proposed resolution at the Council meeting of 17 April 2019 to extend the period of scrutiny to 22 May 2019. As the proposed resolution was not dealt with at the Council meeting of 17 April 2019, the period for amending the Notice expired at the said Council meeting.

8. Under the chairmanship of Hon Jimmy NG Wing-ka, the Subcommittee held one meeting with the Administration on 29 April 2019.

### **Deliberations of the Subcommittee**

9. Members generally support the objective of the Notice. They have expressed concern and enquired about the scope and applicability of Cap. 424, the enforcement work relating to the safety of toys and children's products, and the public education and publicity activities regarding the latest product safety requirements.

10. Dr Helena WONG has expressed concern about the limited number of Schedule 2 products and how the protection of safety could be achieved for other types of children's products.

11. The Administration has explained that the safety standards set out in Schedule 2 to Cap. 424 cover 12 types of children's products and they are common and widely recognized international safety standards. In addition, section 35 of Cap. 424 provides that SCED may by regulation impose additional safety standards for toys and children's products. This regime enables the imposition of additional standards when necessary. By way of illustration, the Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation (Cap. 424C) was made in 2013 to impose control on the concentration of six types of phthalates in certain toys and children's products. The safety of other consumer products not listed in Schedule 2 or not falling within the definition of children's products in section 2 of Cap. 424 would still be subject to the general safety requirement under section 4 of the Consumer Goods Safety Ordinance (Cap. 456) if they fit the definition of "consumer goods".

12. Some members, including Mr Jeremy TAM and Mr YIU Si-wing, have enquired about the applicability of Cap. 424 to used toys and children's products as well as those toys and children's products which are donated for free or offered as a form of sponsorship to charitable or political organizations which could in turn give them to the public.

13. The Administration has advised that according to section 2 of Cap. 424, "supply" means, among others, "to give goods as a prize or to make a gift of the goods for commercial purposes". In addition, it is a defence under section 25 of Cap. 424 for a person to show that he took all reasonable steps and exercised all due diligence to avoid committing an offence under Cap. 424. The Administration has also clarified that under section 8 of Cap. 424, it should be a defence for a person against an offence relating to the compliance with safety standards prescribed under that section that the terms on which the person sold any toys or children's products indicated that they were not being sold as new goods.

14. Dr Fernando CHEUNG has pointed out that the Child Fatality Review conducted by the Director of Social Welfare recommends, 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 has queried whether the Administration has already prohibited the importing and manufacturing locally folding tables without safety locking devices.

15. The Administration has responded that the Customs and Excise Department ("C&ED") is aware of the findings and recommendations of the Child Fatality Review and has taken appropriate follow-up actions. Apart from reminding the retailers and manufacturers that all folding tables sold to the public should be fitted with safety locking devices, C&ED also carries out inspections on folding tables for sale on the market, as well as those imported into Hong Kong at the cross-boundary control points. Any folding tables found without safety locking devices would be prohibited from sale or importing into Hong Kong as they do not comply with the general safety requirement as stipulated in section 4 of Cap. 456.

16. In response to Dr Fernando CHEUNG's concern about the Consumer Council's findings that certain models of soap bubble toys contain a relatively higher count of microorganisms or pathogens and might pose health risks to children, the Administration has advised that C&ED would look into the matter and would seek expert views if necessary.

17. Some members, including Dr KWOK Ka-ki, have enquired how frequent the Administration would update the safety standards of toys and children's products. The Administration has explained that they will keep in view updates and amendments to the safety standards made by the standards institutions concerned and aim to incorporate them into the Schedules to Cap. 424 regularly. The Administration, as a regular exercise, updated the Schedules to Cap. 424 in 2016, 2017 and 2018 to reflect the latest requirements.

18. As regards members' enquiries on the enforcement work in relation to cases of non-compliance with the various safety standards, the Administration has advised that C&ED adopts a risk-based and intelligence-led approach on its enforcement work. In the three years between 2016 and 2018, C&ED conducted a total of around 4 900 spot checks, in which some 229 cases were found not in compliance with the requirements as prescribed in Cap. 424 and its regulations. C&ED issued 30 prohibition notices and 133 written warnings. During the said period 11 successful prosecutions were made. C&ED has also conducted spot checks on online sales of toys and children's products. However, C&ED has confirmed that no statistics are maintained on the total number of toys and children's products imported into Hong Kong, hence there are no statistics on the proportion of imports selected for physical examination at the cross-boundary control points.

19. In reply to Mr Jeremy TAM's suggestion that C&ED should compile information on non-compliant cases, such as when a particular requirement of a standard with which a product has failed to comply is updated, the Administration has advised that C&ED does not keep such information. The Administration has noted the member's suggestion.

20. Some members, including Dr KWOK Ka-ki, have enquired about the public education and publicity activities regarding the latest products safety requirements. Dr KWOK has also suggested enhancing the dissemination of relevant information relating to safety requirements of toys and children's products, for example, through a dedicated public office or government department.

21. The Administration has advised that apart from conducting regular seminars and talks on the latest safety standards, C&ED also organizes visits to schools and Maternal and Child Health Centres and related activities for stakeholders and the public to provide details regarding the application of the latest product safety requirements and advice to consumers when buying toys and children's products. The Consumer Council also plays an important role in consumer protection and education by conducting tests on goods, and collecting and disseminating information on safety of goods through various channels, including press conferences and its monthly CHOICE magazine. The Administration has agreed to convey members' view on the need to enhance the education and publicity work on toys and children's products to the Consumer Council.

22. The Subcommittee has completed the scrutiny of the Notice and supports the amendments contained therein.

### **Advice sought**

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

**Subcommittee on Toys and Children's Products Safety Ordinance  
(Amendment of Schedules 1 and 2) Notice 2019**

**Membership list**

**Chairman** Hon Jimmy NG Wing-ka, JP

**Members** Hon Paul TSE Wai-chun, JP  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon LEUNG Che-cheung, SBS, MH, JP  
Dr Hon KWOK Ka-ki  
Hon Dennis KWOK Wing-hang  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon Alvin YEUNG  
Dr Hon Junius HO Kwan-yiu, JP  
Hon HO Kai-ming  
Hon Holden CHOW Ho-ding  
Hon Jeremy TAM Man-ho

(Total : 16 members)

**Clerk** Mr Anthony CHU

**Legal Adviser** Ms Clara TAM