
REGULATORY OVERVIEW

The following sets forth the relevant laws and regulations which are required for our operations in Hong Kong:

Food Business Regulation (Chapter 132X of the Laws of Hong Kong)

Our Group is a food ingredients supplier and provides food processing services to major food service operators. Any food factory who intends to prepare and/or manufacture food for sale for human consumption off its premises in Hong Kong must obtain a food factory licence issued by the Director of Food and Environmental Hygiene before the commencement of the food factory business.

The Food Business Regulation provides that no person shall carry on or cause, permit or suffer to be carried on any food business except with a food factory license granted by the Director of Food and Environmental Hygiene of the Food and Environmental Hygiene Department. A “food factory” is defined as any food business which involves the preparation of food for sale for human consumption off the premises.

An application for a food factory license requires the submission of a proposed layout plan of the premises to the Director of Food and Environmental Hygiene with necessary particulars such as the space allocated in the food factory to the preparation, handling and storage of open food, sanitary fitments and drainage works, the siting of all furniture of a substantial and permanent nature, including food manufacturing or preparation plant, cooking ranges, refrigeration or cooling equipment, fixed sideboards, washbasins or sinks, drying racks, water tanks and other like equipment, means of refuse storage and disposal, and the space allocated to the thawing of frozen articles of food and to facilities for inspection and sampling of such food. Before granting a license, the Director of Food and Environmental Hygiene shall take into consideration: (i) licensing requirements such as access to public mains water, internal surfaces of walls of the food preparation room, aggregate food room area and facilities in the toilets of the food factory; (ii) building structure and means of escape; and (iii) fire safety.

Where a license is granted under the Food Business Regulation, the licensee shall keep exhibited such licence at a conspicuous place near the entrance of the premises of the food factory. A licensee is prohibited from carrying on or cause, permit or suffer to be carried on a food business other than that at or from the confines of the plan submitted to the Director of Food and Environmental Hygiene in its application.

Subject to the payment of the prescribed licence fee and continuous compliance with the requirements under the relevant legislation and regulations, a food factory licence is renewable annually.

Food Safety Ordinance (Chapter 612 of the Laws of Hong Kong)

As a food ingredients supplier who carries on a food importation/distribution business, we are required to register with Director of Food and Environmental Hygiene as a food importer or food distributor before the commencement of food importation/distribution.

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The Food Safety Ordinance requires any person who carries on a food importation or distribution business to register with the Director of Food and Environmental Hygiene, which allows the Director of Food and Environmental Hygiene to identify and contact registered food traders speedily in food-related incidents.

Under the Food Safety Ordinance, a person must not carry on a food importation or distribution business unless the person is registered as a food importer or distributor in respect of that business. A “food importer” means a person who carries on a business which brings or causes to be brought any food into Hong Kong by air, land or sea. A “food distribution business” is defined as a business whose principal activity is the supply of food in Hong Kong by wholesale.

An application for registration as a food importer or distributor requires the identification of the main food categories and food classifications of all food to be imported by the business (in the case of a food importer) and supplied by wholesale by the business (in the case of a food distributor). An application must also be accompanied by any documents or information reasonably required by the Director of Food and Environmental Hygiene for the purpose of considering the application.

Any person or business that, without reasonable excuse, contravenes such a requirement imposed under the Food Safety Ordinance commits an offence and is liable to a fine and/or imprisonment for up to 6 months. An application may be refused and/or registration may be revoked if the applicant has repeatedly contravened the Food Safety Ordinance in the period of 12 months immediately preceding the day on which the application was made or by the exercise of the Director of Food and Environmental Hygiene’s power to revoke a registration under the Food Safety Ordinance. The Director of Food and Environmental Hygiene is empowered to revoke a registration through the Demerit Point System established under the Food Safety Ordinance, which provides that if a registered food importer or distributor is convicted of any offence under the Food Safety Ordinance in respect of his business, a specified number of demerit points will be assigned and entered against his registration. Demerit points for a particular offence may be doubled, trebled or quadrupled respectively if the same offence is committed for the second, third or fourth time within a period of twelve months. If the registered food importer or distributor accumulates twenty points or more within a period of twelve months, its registration will be revoked.

Registration as a food importer/distributor may be granted for a period of three years, subject to payment of the prescribed registration fee and continuous compliance with the requirements under the relevant legislation and regulations, subject to renewal.

Sale of Goods Ordinance (Chapter 26 of the Laws of Hong Kong)

Our Quality Control Department is responsible for ensuring the safety and quality standards of our food ingredients are maintained from the procurement stage and throughout the processing stage in accordance with the Sale of Goods Ordinance.

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The Sale of Goods Ordinance governs, among other things, the scope of certain implied terms or conditions and warranties generally relating to the safety and suitability of goods supplied under a contract for the sale of goods in Hong Kong. Warranties relating to the safety and suitability of goods supplied include that goods for sale must be of merchantable quality and as such are, among other things, free from defects, safe and durable.

The Sale of Goods Ordinance applies only to sellers of goods in Hong Kong. A breach of warranty by the seller under the Sale of Goods Ordinance may entitle the buyer to reject the goods, set up against the seller a diminution or extinction of the price or maintain an action against the seller for damages.

Consumer Goods Safety Ordinance (Chapter 456 of the Laws of Hong Kong)

Our Group primarily supplies food ingredients, which are consumer goods that are subject to the Consumer Goods Safety Ordinance – that is, goods which are ordinarily supplied for private use or consumption. The Consumer Goods Safety Ordinance imposes a statutory duty on manufacturers, importers and suppliers of consumer goods to ensure that any consumer good supplied complies with the general safety requirement or, where an approved standard(s) applies to the consumer good, the proved safety standard(s) or specifications prescribed by the Secretary for Commerce and Economic Development of Hong Kong.

Under the Consumer Goods Safety Ordinance, a person or business must not manufacture, import or supply a consumer good in Hong Kong unless the consumer good is reasonably safe having regard to all the circumstances (the “general safety requirement of consumer goods”) and complies with all requirements of the approved safety standard(s) or specifications established by regulation applicable to the consumer good.

The Commissioner of Customs and Excise is empowered to serve prohibition notices prohibiting the person or business supplying consumer goods from supplying those goods for a specified period not exceeding six months, and serve recall notices requiring the immediate withdrawal of any consumer goods or products which may cause serious injury and do not comply with an approved standard or safety standard or specification established by regulation or are believed to be unsafe contrary to the general safety requirement of consumer goods.

Any person or business who or which violates the general safety requirement or applicable approved standards commits an offence under the Consumer Goods Safety Ordinance and may be subject to a fine and/or imprisonment.

Public Health and Municipal Services Ordinance (Chapter 132 of the Laws of Hong Kong)

As we process and supply food ingredients to our customers, our operations are subject to the Public Health and Municipal Services Ordinance and the subsidiary legislations made thereunder. Pursuant to the Public Health and Municipal Services Ordinance, no person or business shall add any substance to any food, use any substance as an ingredient in the

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preparation of any food, abstract any constituent from any food, or subject any food to any other process or treatment so as to render the food injurious to health. No person or business shall sell any such food for human consumption.

Under Section 62(1) of the Public Health and Municipal Services Ordinance, the Food and Environmental Hygiene Department is empowered to collect food samples at point of entry into Hong Kong for analyses, including bacteriological and chemical examination. The Food and Environmental Hygiene Department will pay the market price of any samples of vegetables and fruits taken from importers for testing for pesticide residues, to ensure that products in the markets are safe and fit for human consumption. Our suppliers, who also act as the importers of our food ingredients, are subject to such analyses.

The Pesticide Residues in Food Regulation (Chapter 132CM of the Laws of Hong Kong), a subsidiary legislation under the Public Health and Municipal Services Ordinance, contains provisions for the maximum amount of pesticide residues permitted to be contained in food. Any person who imports, consigns, delivers, manufactures or sells for human consumption a food which contains pesticide residues in contravention of those provisions commits an offence and is liable to a fine of HK\$50,000 and to imprisonment for six months.

Our packaged food ingredients are also subject to the Food and Drugs (Composition and Labelling) Regulations (Chapter 132W of the Laws of Hong Kong), a subsidiary legislation under the Public Health and Municipal Services Ordinance, which prescribes for certain requirements of marking and labelling of prepackaged food, such as the proper marking or labelling of the name of the food ingredient, the name and address of its manufacturer and its weight or volume. Contravention of those requirements may result in a conviction carrying a maximum penalty of HK\$50,000 and six months’ imprisonment.

Factories and Industrial Undertakings Ordinance (Chapter 59 of the Laws of Hong Kong)

Our food processing operations are subject to the Factories and Industrial Undertakings Ordinance, which provides for the safety and health protection to workers in an industrial undertaking. Under the Factories and Industrial Undertakings Ordinance, it is the duty of a proprietor (including person for the time being having the management or control of the business carried on in such industrial undertaking and also the occupier of any industrial undertaking) of an industrial undertaking to take care of, so far as is reasonably practicable, the health and safety at work of all persons employed by him at the industrial undertaking. The duties of a proprietor extend to include:

- providing and maintaining plant and work systems that do not endanger safety or health;
- making arrangement for ensuring safety and health in connection with the use, handling, storage and transport of articles and substances;
- providing all necessary information, instruction, training, and supervision for ensuring safety and health;

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- providing and maintaining safe access to and egress from the workplaces; and
- providing and maintaining a safe and healthy work environment.

A proprietor who contravenes these duties willfully and without reasonable excuse commits an offence and is liable to a fine of HK\$500,000 and to imprisonment for six months.

The Factories and Industrial Undertakings (Guarding and Operation of machinery) Regulations (Chapter 59Q of the Laws of Hong Kong), a subsidiary regulation under the Factories and Industrial Undertakings Ordinance, imposes a duty on a proprietor and his employees to comply with safety requirements related to operation of machinery. Contravention of those requirements is an offence with different levels of penalty up to a fine of HK\$50,000. We conduct regular maintenance on our machinery and equipment and provide proper training to our staff to ensure those requirements are complied with.

Occupier’s Liability Ordinance (Chapter 314 of the Laws of Hong Kong)

Our Group has leased several properties and is considered to be the occupier of the said properties under the Occupier’s Liability Ordinance. As such, we are required to comply with the Occupiers Liability Ordinance, which regulates the obligations of a person or business occupying or having control of the premises on which injury resulting to persons or damage has been caused to goods or other property lawfully on the premises.

The Occupiers Liability Ordinance imposes a common duty of care on an occupier of premises to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there.

Occupational Safety and Health Ordinance (Chapter 509 of the Laws of Hong Kong)

Our workers are exposed to injuries whilst processing, packaging and/or delivering food ingredients. Our management team is responsible for providing safety and health protection to employees in workplaces, both industrial and non-industrial in accordance with the Occupational Safety and Health Ordinance.

Employers must as far as reasonably practicable ensure the safety and health in their workplaces by:

- providing and maintaining plant and work systems that do not endanger safety or health;
- making arrangement for ensuring safety and health in connection with the use, handling, storage or transport of plant or substances;
- providing all necessary information, instruction, training, and supervision for ensuring safety and health;

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- providing and maintaining safe access to and egress from the workplaces; and
- providing and maintaining a safe and healthy work environment.

Failure to comply with the above provisions constitutes an offence and the employer is liable on conviction to a fine of HK\$200,000. An employer who fails to do so intentionally, knowingly or recklessly commits an offence and is liable on conviction to a fine of HK\$200,000 and to imprisonment for six months.

The Commissioner for Labour may also issue improvement notices against noncompliance of this Ordinance or the Factories and Industrial Undertakings Ordinance or suspension notice against activity of workplace which may create imminent hazard to the employees. Failure to comply with such notices constitutes an offence punishable by a fine of HK\$200,000 and HK\$500,000 respectively and imprisonment of up to twelve months.