

ITEM FOR FINANCE COMMITTEE

**GENERAL REVENUE ACCOUNT
HEAD 22 - AGRICULTURE, FISHERIES AND CONSERVATION
DEPARTMENT**

**Subhead 700 General other non-recurrent
New item "Compensation and ex-gratia payment to poultry operators affected
by avian flu"**

**LOAN FUND
HEAD 262 - PRIMARY PRODUCTS
New Subhead "Loans to poultry wholesalers and retailers affected by avian
flu"**

Members are invited to approve –

- (a) Creation of a new commitment of \$104.6 million for paying compensation and ex-gratia grants as applicable to poultry farmers, wholesalers, retailers and transport operators; and
- (b) Creation of a new subhead "Loans to poultry wholesalers and retailers affected by avian flu" under Loan Fund with a commitment of \$73 million for making loans to affected wholesalers and retailers.

PROBLEM

Some 235 000 birds in poultry retail outlets were slaughtered in recent days by order of the Director of Agriculture, Fisheries and Conservation (DAFC) under the Public Health (Animals and Birds) Regulations (the Regulations). Some 66 000 birds in wholesale markets were slaughtered and

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some 1 110 000 in local farms will be given up by their owners for slaughtering. We also seized some 119 000 dressed poultry from the retail and wholesale markets. The exercise is hereinafter referred to as “the operation”. We need to pay statutory compensation as appropriate and provide other financial assistance to affected operators in the poultry trade.

PROPOSAL

2. We propose to –
 - (a) create a new non-recurrent commitment of \$104.6 million under Head 22 Agriculture, Fisheries and Conservation Department (AFCD) Subhead 700 General other non-recurrent for providing compensation and ex-gratia grants as applicable to poultry farmers, wholesalers, retailers and transport operators affected by the operation; and
 - (b) create a new subhead “Loans to poultry wholesalers and retailers affected by avian flu” under the Loan Fund Head 262 Primary Products with a commitment of \$73 million for providing low-interest loans to affected poultry wholesalers and retailers.

JUSTIFICATION

3. Between 2 and 10 May 2001, the University of Hong Kong detected H5N1 virus in faecal samples collected from the Yeung Uk Road Market, Fa Yuen Street Market and Smithfield Market. On 11 May 2001, we were notified of the results of the gene sequence analysis of the H5N1 virus isolated at the Yeung Uk Road Market which showed that the virus, a Goose 96-type virus, had started to mutate. On 15 and 16 May, there was an extraordinarily high chicken mortality rate at the Yeung Uk Road Market. Post mortem of dead chickens collected from the three markets showed that the chickens all died of avian flu. In the circumstances, the DAFC declared, on 16 May, the poultry stalls in the three markets as infected places under Regulation 30 of the Regulations. All birds in the poultry stalls were then slaughtered by order of the DAFC.

4. On 17 May 2001, an extraordinary number of chicken deaths was reported in the Tai Shing Market. The same happened in the Pei Ho Street Market on 18 May 2001. Post mortem of dead chickens from these two markets and from five other markets found that avian flu was the cause of death.

5. Although there was no evidence that the virus would affect human health, it had spread rapidly among chickens in retail outlets and, having sought expert advice of the Special Investigation Group on Influenza, we could not rule out the possibility that the virus would re-assort with other viruses and develop a new virus that could affect human health. We therefore decided on 18 May 2001 to close all retail outlets of live poultry and thoroughly disinfect and cleanse the outlets. For this to be effectively done, all the poultry in retail outlets have to be slaughtered. DAFC therefore declared all poultry retail outlets infected places and all live poultry therein were slaughtered by order of DAFC under Regulation 35(1) of the Regulations between 18 May and 20 May 2001.

6. Although there was no sign of infection of avian flu virus among poultry in the wholesale markets and local farms, poultry in the wholesale markets and marketable poultry in local farms could not be released for sale due to the closure of all retail outlets. They would become too old for sale if kept there until the retail outlets re-open. Thus, with the consent of their owners, we slaughtered the poultry in the wholesale markets and are in the process of slaughtering marketable poultry in local farms.

7. We also seized some 119 000 dressed chicken and other poultry. These were live poultry slaughtered by the stall owners for various reasons before the depopulation exercise. Since the stall owners would not be able to sell these dressed poultry after the closure of the retail outlets, there would be hygiene problems if the birds were left in the stalls during the closure period.

THE PROPOSED COMPENSATION / FINANCIAL ASSISTANCE PACKAGE

8. Under the Public Health (Animals and Birds) Ordinance (the Ordinance), Government has to make statutory compensation to owners for the birds in the retail outlets slaughtered by order of the DAFC. Under the Ordinance, when the birds slaughtered were not infected with any disease, their owners would receive more favourable compensation, at the full value of the birds before they were slaughtered. We propose to assume that all birds slaughtered were not infected with any disease. According to the Ordinance, the full value of a bird slaughtered shall be determined by DAFC but not exceeding \$30 per bird.

9. For birds in the wholesale markets and local farms which were slaughtered not by order of DAFC but with the consent of the owners and for the dressed poultry seized, they would not be entitled to the statutory compensation. However, we consider it reasonable to pay the owners the same compensation, but on an ex-gratia basis, for their loss since they are compelled by the circumstances to have their birds slaughtered and to give up their dressed poultry.

10. In addition, we consider it necessary to offer other forms of financial assistance to directly affected operators in the poultry trade to help meet their routine operating expenses and to alleviate short term cashflow problems.

11. The proposed overall compensation/ex-gratia package is modeled on that approved by the Finance Committee on 9 January 1998 (FCR(97-98)87) for the last avian flu outbreak (the 1998 package). It is relevant that since January 1998 there has been no fundamental change to the mode of operation of the poultry trade, and there has been a deflation of 8.1%. The components of the proposed package are described below.

Compensation/ex-gratia payment for birds slaughtered and dressed poultry seized

Encl. 1 12. The compensation rates determined by DAFC under the Ordinance are set out in Enclosure 1 for different types of birds from different segments of the poultry trade. The rates are the same as those in the 1998 package. Where the rates exceed the statutory limit of \$30 per bird, we propose to regard the excess amount as payments on an ex-gratia basis.

13. While there is no statutory requirement for compensation for birds slaughtered not by order of the DAFC or for the dressed poultry seized, we propose to pay their owners in accordance with the rates at Enclosure 1 on an ex-gratia basis.

Other ex-gratia payments

14. In addition to the above compensation and ex-gratia payment for birds slaughtered or seized, we consider it necessary to offer other forms of financial assistance to the operators directly affected. We propose to offer ex-gratia payments at rates set out below to help the different groups of operators affected, to help them meet their routine operating expenses during the suspension of trading, including paying wages to their workers –

(a) poultry retailers

- (i) tenants of poultry market stalls in Food and Environmental Hygiene Department (FEHD) markets – ex-gratia payment of \$30,000 per stall;
- (ii) licensees of fresh provision shops in markets run by the Housing Authority (HA) – ex-gratia payment of \$30,000 per licensee; and

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- (iii) licensees of fresh provision shops in private buildings – ex-gratia payment of \$60,000 per licensee. This rate is higher because unlike the preceding two types of operators who will have their rental waived (see paragraph 17 below), these licensed fresh provision shops will have to pay rent while trading is suspended.
- (b) poultry wholesalers
 - (iv) ex-gratia payment of \$40,000 per stall; and
- (c) poultry transport operators
 - (v) ex-gratia payment of \$24,000 per lorry based on records kept by AFCD.

Low-interest loans

15. Furthermore, to help poultry retailers and wholesalers alleviate their cashflow problems during the suspension of trading, we propose to provide, on an exceptional and ad hoc basis, low-interest loans to these wholesalers and retailers. We propose that loans should be granted up to \$75,000 on an unsecured basis. These loans should attract an interest rate of 2% per annum and be repayable in 12 equal monthly instalments, beginning six months after draw-down. Interest will accrue upon draw-down and be paid together with the last instalment. DAFC will administer these loans to be funded from a new commitment. We estimate that a commitment amounting to \$73 million will be required for this purpose. Other parameters for the proposed loans to the affected poultry wholesalers and retailers are at Enclosure 2. The proposed maximum amount of loan is less than that in the 1998 package because –

Encl. 2

- (a) unlike the 1997 outbreak, wholesalers and retailers will not be required to replace or procure major items essential for their business such as bird cages; and
- (b) in 1997, wholesalers and retailers had been hard hit by the decrease in business for a long period before the depopulation exercise took place. In the current incident, they have not suffered a similar reduction in sales before the closure of retail outlets.

16. Similarly, we do not propose any loan for local farmers. Unlike the 1997 outbreak, chicken farmers do not have to upgrade any equipment or facility in their farms.

/Other

Other forms of assistance

17. Since wholesalers, retailers and poultry transport operators have to suspend their operations during the period of closure of poultry retail outlets, Government has decided to waive the rent for the retail market closure period for –

- (a) poultry market stalls in FEHD markets (inclusive of rates and air-conditioning charges);
- (b) stalls in government wholesale poultry markets and vehicle parking spaces (inclusive of rates) of renters of these stalls; and
- (c) vehicle parking spaces in government wholesale markets (inclusive of rates) of poultry transport operators.

18. The HA will also consider waiving the rent, the rates and air-conditioning charges for poultry stalls in their markets at the meeting of the Commercial Properties Committee scheduled for 28 May 2001.

Responsibility of employers

19. We are aware that workers in the relevant trades may also be affected in one way or another. As a matter of principle, Government considers that it is the responsibility of an employer to meet his obligations to his workers. Furthermore, the employer has a legal responsibility to pay workers still in his employment or to pay any laid off employees the wages and other benefits provided for under the Employment Ordinance and the employment contract. The Comprehensive Social Security Assistance Scheme provides a further safety net. We expect employers in the poultry trade to discharge their responsibilities to their employees having regard to the compensation and financial assistance made available under the proposed package.

Summary of the proposed package

20. A summary of the financial assistance proposed for the various groups of affected parties in the poultry is set out below –

Parties affected	Compensation and Ex-gratia payment
Chicken farmers	<ul style="list-style-type: none"> • Payment for birds (at marketable age) slaughtered as per rates set out at Enclosure 1.

/Poultry

Parties affected	Compensation and Ex-gratia payment
Poultry wholesalers	<ul style="list-style-type: none"> ● Payment for birds slaughtered and dressed poultry seized as per rates in Enclosure 1. ● Lump sum ex-gratia payment of \$40,000. ● 2 % low-interest loan, up to \$75,000 on an unsecured basis. ● Waiver of rentals for market stalls and vehicle parking spaces in government wholesale poultry markets for the whole of the period of closure of retail outlets.
Poultry retailers	<ul style="list-style-type: none"> ● Payment for birds slaughtered and dressed poultry seized as per rates in Enclosure 1. ● Lump sum ex-gratia payment of – <ul style="list-style-type: none"> ➤ \$30,000 per poultry stall in FEHD and HA markets. ➤ \$60,000 per licensed fresh shops in private building. ● 2% low-interest loan, up to \$75,000 on an unsecured basis. ● Waiver of rentals of market stalls of FEHD and, subject HA’s consideration, of HA, for the whole of the period of closure of retail outlets.
Poultry transport operators	<ul style="list-style-type: none"> ● Lump sum ex-gratia payment of \$24,000 per lorry on record of AFCD for transportation of live poultry between the Mainland farms/local farms and the government poultry wholesale markets and from these markets to retail outlets. ● Waiver of rentals for vehicle parking spaces in government wholesale poultry markets for the whole of the period of closure of retail outlets.

FINANCIAL IMPLICATIONS

21. We estimate the total amount required to pay compensation and ex-gratia payments to poultry farmers, wholesalers, retailers and transport operators under the proposed package at about \$104.6 million, broken down as follows –

/(a)

	\$'000	\$'000
(a) Statutory compensation and ex-gratia payment for birds slaughtered and dressed poultry seized		51,162
(b) Other ex-gratia payments		43,890
- Poultry wholesalers	3,600	
- Poultry retailers	31,410	
- Poultry transporters	8,880	
(c) Contingency (10%)		9,505
Total		104,557 say 104,600

22. Subject to Members' approval of the creation on a new commitment of \$104.6 million, we will make the payments as soon as possible. We shall offset any supplementary provision required in 2001-02 by deleting an equivalent amount under Head 106 Miscellaneous Services Subhead 789 Additional commitments.

23. The proposed creation of new loan commitment of \$73 million for providing loans to poultry wholesalers and retailers is an one-off commitment in the Loan Fund. There are no recurrent implications for the General Revenue.

BACKGROUND INFORMATION

24. On 16 May 2001 when the DAFC declared the poultry stalls in the Yeung Uk Road Market, Fa Yuen Street Market and Smithfield Market as infected places under Regulation 30 of the Regulations, the Administration created a non-recurrent commitment of \$1,300,000 under delegated authority for paying compensation and ex-gratia grants to affected poultry stall owners at the three markets under Head 49 Food and Environmental Hygiene Department Subhead 700 General other non-recurrent.

25. Due to the fast development of the avian flu incident as described in paragraphs 3 to 7 above, DAFC declared all poultry retail outlets infected places on 18 May and all live chickens therein were slaughtered by order of DAFC. As the estimated total amount of compensation and ex-gratia grants exceeds \$10 million, FC's approval is sought for the proposed financial package.

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URGENCY

26. We have placed this item on the agenda for 25 May 2001 which is the first available Finance Committee meeting since the operation. This is to ensure that, if the proposals are approved by Members, we can provide the financial assistance to those affected immediately. We apologise for the inconvenience caused to Members by the late issue of the paper.

Environment and Food Bureau
May 2001

Schedule of Rates of Compensation for Slaughtered Birds

Type of bird	Farm rate \$	Wholesale rate \$	Retail rate \$
Chicken	38	30	34
Goose	Not Applicable	120	130
Duck	Not Applicable	37	40
Pigeon	27	27	30
Quail	7	7	8
Partridge and others	Not Applicable	45	50

Note: The rates per bird above are inclusive of statutory compensation and an ex-gratia element where the full value of the bird exceeds \$30. It should be noted that locally-reared birds fetch a higher price than imported birds, thus the farm rate for chickens is set higher than the wholesale and retail rates for chickens. The wholesale and retail rates take into account the fact that 85% of chickens consumed in Hong Kong are imported birds.

5. Repayment

Loans to be repaid by 12 equal monthly instalments, the last instalment to include interest accrued. Repayment to start six months after draw-down of the loan.

Borrower can choose to have the outstanding principal and accrued interest repaid at any time he wishes within the 12-month repayment period.

In case of default in repayment, DAFC may recover the sum outstanding together with accrued interest from the borrower in such manner as she thinks fit.
6. Administration of the loans

DAFC will administer the loans. Payment of all loans approved will be made by DAFC.
7. Submission of applications

Applicants must submit their applications in the form specified by DAFC and submit such additional supporting information and documents as may be required by DAFC.

Applications by poultry wholesalers are to be submitted to DAFC.

Applications by poultry retailers are to be submitted through the Director of Food and Environmental Hygiene (DFEH), who will vet the applications and transmit them to DAFC with their respective recommendations for consideration and approval.

Applications should be submitted within three months from the date of Finance Committee approval of the loan arrangement.
8. Authority for approval of loans

The authority for approval of any loan up to \$75,000 will be nominated by DAFC and be not lower than the Assistant Director level. The authority for the recommendations from DFEH will be nominated by DFEH and also be not lower than the Assistant Director level.

Proposed Compensation and Ex-gratia Payments

A. Compensation for birds destroyed

Type of birds	No. of birds destroyed	Compensation/ ex-gratia payment \$'000
Chicken	1 159 949 (estimated)	42,640
Goose	2 412	305
Duck	12 609	499
Pigeon	236 940 (estimated)	6,556
Quail	111 548 (estimated)	802
Partridge and others	7 278	360
Total A	1 530 736	51,162

B. Lump sum ex-gratia payments to operators affected

Operators affected	Number of stalls/licensees/lorries	Unit rate \$'000	Ex-gratia payment \$'000
Poultry wholesalers (stalls)	90	40	3,600
Poultry retailers at FEHD and HA markets (502 FEHD stalls + 221 HD's fresh provision shops)	723	30	21,690
Poultry retailers at fresh provisions shops in private premises (licences)	162	60	9,720
Poultry transport operators (per lorry)	370	24	8,880
Total (B)			43,890
Total (A) + (B)			95,052
10% contingency			9,505
Grand Total			104,557

