

Letterhead of Environment and Food Bureau Government Secretariat

電話號碼 Tel no.: 2136 3292

傳真號碼 Fax no: 2136 3282

本函檔號 Our ref.: EFB CR 5/6/1

By Fax: 2877 5029

22 November 2001

Mr Arthur CHEUNG,
Assistant Legal Adviser,
Legislative Council Secretariat,
Legislative Council Building,
8 Jackson Road, Central
Hong Kong.

Dear Mr CHEUNG,

Food Business (Amendment) Regulation 2001

Further to my letter yesterday, I hereby attach for your consideration Chinese translation of the Administration's response to your questions. Thank you.

Yours sincerely,

(Ernest CHAN)

for Secretary for the Environment and Food

c.c. Clerk to Subcommittee 2509 0775

《2001年食物業（修訂）規例》

“處所”與“活家禽”

根據第 132 章之下的《食物業規例》，售賣活家禽及／或新鮮、冷凍和冷藏的家禽屠體和什臟，須領有由署長發出的新鮮糧食店牌照或獲署長批出註明可售賣受限制食物的公眾街市租約。活家禽及／或新鮮、冷凍和冷藏的家禽屠體和什臟，只可在新鮮糧食店或公眾街市攤檔的範圍內售賣。

新訂的《食物業規例》第 30(1A)(a)、(1C)(a)、(1E)(a)及(1G)(a)條所提及的“處所”，指領有新鮮糧食店牌照的“食物業處所”或有關的公眾街市租約上註明可售賣受限制食物的“食物業處所”。任何人不得在這些食物業處所的範圍外售賣活家禽及經處理的水禽屠體或水禽什臟，否則即屬違法。該規例第 3 條規定，“食物業處所”指有人在其內或從其內經營食物業的處所。

在有關的販商不能控制或不知情的情況下，有活家禽存在於售賣水禽屠體及／或什臟的“處所”或有人把活家禽帶進該等“處所”，可能性甚微。

根據公眾街市家禽攤檔的租約條款或新鮮糧食店的發牌規定，所有售賣活家禽的零售店舖都設有屠宰設施。顧客買了活家禽後攜帶活家禽繼續逛其他店舖的機會極微。

即使上述不太可能發生的情況真的發生，如有任何人在不能控制或不知情的情況下觸犯法例，當局應不會提出檢控。

有活水禽存在的情況

根據第 132 章所載的定義，“家禽”指“通常用作供人食用的禽鳥，以及其他出售或要約出售供人食用的禽鳥”。在現行分流處理水禽的政策之下，所有活水禽都會直接運往西區副食品批發市場屠宰。由於任何人不得在西區副食品批發市場以外的任何地點售賣活水禽，因此出售水禽屠體或內臟的零售店舖不可能有活水禽存在。

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21 November 2001

Mr Arthur CHEUNG,
Assistant Legal Adviser,
Legislative Council Secretariat,
Legislative Council Building,
8 Jackson Road, Central
Hong Kong.

Dear Mr CHEUNG,

Food Business (Amendment) Regulation 2001

Thank you for your letter of 15 November 2001. The Administration's response to your questions is set out as per the attached. We shall separately send you Chinese translation of our response.

Yours sincerely,

(Ernest CHAN)

for Secretary for the Environment and Food

c.c. Clerk to Subcommittee 2509 0775

Food Business (Amendment) Regulation 2001

“Premises” and “Live Poultry”

Under the Food Business Regulation of Cap. 132, a fresh provision shop (FPS) licence or a public market tenancy with permission to sell restricted food granted by the Director is required for the sale of live poultry and/ or fresh, chilled and frozen poultry carcasses and offal. The sale of live poultry and/ or fresh, chilled and frozen poultry carcasses and offal must be conducted within the confines of a FPS or a public market stall.

“Premises” in the new section 30(1A)(a), (1C)(a), (1E)(a) and (1G)(a) of the Food Business Regulation refers to the “food premises” to which a FPS licence or a public market tenancy with permission to sell restricted food is granted. No one is allowed to legally sell live poultry and water bird dressed carcasses or offal beyond the confines of these food premises. Under section 3 of the Regulation, “food premises” means any premises on or from which there is carried on any food business.

It is highly improbable for a live poultry to exist or to be brought into “the premises” where water bird carcasses and/ offal are being sold without control or prior knowledge of the seller concerned.

In regard to the poultry stall provisions in public market or licensing requirements of FPS, all retail outlets selling live poultry are equipped with scalding facilities. The possibility is extremely remote that a customer will buy a live poultry and continue to shop around carrying it.

Even if these improbable situations arise, the Administration is unlikely to prosecute any person when the offending act is committed beyond his control or knowledge.

Presence of Live Water Birds

By definition, “poultry” under Cap. 132 means “any bird commonly used

for human consumption and also any other bird which is sold or offered for sale for human consumption”. Under the current segregation policy for water birds, all live water birds are currently transported direct to Western Wholesale Food Market (WWFM) and slaughtered there. No one is allowed to sell any live water bird at any location other than WWFM. It is therefore impossible for a live water bird to be present in a retail outlet where water bird carcasses or offal are being sold.