

LEGISLATIVE COUNCIL BRIEF

Public Health and Municipal Services Ordinance
(Chapter 132)
Public Health (Animals and Birds) Ordinance
(Chapter 139)

PUBLIC HEALTH (ANIMALS AND BIRDS)(AMENDMENT) REGULATION 2001

PUBLIC HEALTH (ANIMALS AND BIRDS)(ANIMAL TRADERS) (AMENDMENT) REGULATION 2001

FOOD BUSINESS (AMENDMENT) REGULATION 2001

INTRODUCTION

At the meeting of the Executive Council on 16 October 2001, the Council ADVISED and the Chief Executive ORDERED that

- (a) the Public Health (Animals and Birds) (Amendment) Regulation 2001, at **Annex A**, and the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2001, at **Annex B**, should be made under section 3 of the Public Health (Animals and Birds) Ordinance (Cap. 139) to give effect to the proposal of segregating live quail from other live birds at import and wholesale and during transportation; and
- (b) the Director of Food and Environmental Hygiene (DFEH) should exercise her authority under section 56 of the Public Health and Municipal Services Ordinance (Cap. 132) to make

the Food Business (Amendment) Regulation 2001 at **Annex C** to give effect to the proposals of –

- (i) segregating live quail from other live birds at retail; and
- (ii) requiring carcass of water birds to be dressed and packed separately from offal of water bird and offal of water birds to be packed and sealed for sale at and delivery to premises where live poultry are present, except in the Western Wholesale Food Market.

BACKGROUND AND ARGUMENT

Segregation of Live Quail from Other Birds

(A) Expert Advice

2. Recent scientific research has revealed that genetic material from H9 and H6 influenza viruses commonly carried by quail mixed with that from a mild goose H5N1 virus to form the lethal 1997 H5N1 chicken influenza virus. We know that quail in our markets still carry these H9 and H6 viruses and, in May this year, we had an incursion of a reassortant goose-type H5N1 virus into our retail markets. Experts are of the view that if we allow these viruses to co-exist, reassortment of genetic material could happen leading to the emergence of a virus similar to the 1997 strain in our markets. We have already taken the necessary measures to remove the H5 virus carried by water birds from the market and to minimise the chance of its returning. Segregation of live quail from other live birds will further reduce the risk of viruses from different kinds of birds mixing and reassorting to develop new strains which have adverse effects on human health.

(B) The Proposal

3. We **propose** that live quail for consumption should be segregated from other live birds at all levels of transportation and sale, i.e. from import to retail for imported quail and from farm to retail for local quail. Local

quail farms are already rearing quail alone. Nevertheless, we intend to amend the conditions of the Livestock Keeping Licences to prohibit the keeping of quail with other poultry on the same farm.

4. At present, wholesaling of live quail takes place at the Cheung Sha Wan Temporary Wholesale Poultry Market (CSWTWPM) together with the wholesaling of other live land-based birds. When implementing the segregation of live quail from other live birds, we will no longer allow live quail to be sold at CSWTWPM. We also do not intend to provide a dedicated wholesale market or central slaughtering facility for live quail because the demand for such facilities is likely to be very limited.

5. Any person who wishes to sell live quail can do so on successful application for the requisite licences and permission. In considering the application for these licences and permission, we will take into consideration, among other things, whether there are poultry stalls in the vicinity of the proposed premises for selling quail.

6. To give effect to the above proposal, amendments have to be made to the Public Health (Animals and Birds) Regulations, the Public Health (Animals and Birds) (Animal Traders) Regulations and the Food Business Regulation.

(C) Other Game Birds

7. We have so far not seen conclusive evidence that other game birds such as chukars, pheasants and guinea fowls are likely carriers of the H6 and H9 viruses that can reassort with H5 virus to develop into lethal avian influenza viruses similar to the 1997 strain. We are, nevertheless, monitoring closely the scientific research that is being conducted into these other game birds. If in the future there is evidence to show that they pose a similar risk as live quail, we will propose the same segregation measure for these birds.

Requiring Offal of Water Birds and Dressed Water Bird Carcasses to be Packed and/ or Sealed for Sale

(A) Segregation of Water Birds Since 1998

8. Water birds, including ducks and geese, are natural carriers of H5 avian influenza viruses and can pass on these viruses to other poultry. In February 1998, the Public Health (Animals and Birds) Regulations (Cap. 139, sub. leg.) were amended to give effect to segregation of water birds from other poultry. The then Food Business (Urban Council) By-laws (Cap. 132, sub. leg.) and the then Food Business (Regional Council) By-laws (Cap. 132, sub. leg.) were also amended by the then Provisional Urban Council and Provisional Regional Council respectively for the same purpose. Conditions in livestock keeping licences were also amended to prohibit local farmers from keeping land-based poultry and water birds on the same farm.

(B) Avian Flu Incident of May 2001

9. In the recent avian flu incident, there was extensive infection of chickens at retail outlets caused by a genetically re-assorted H5 goose-type virus. Taking into account expert advice, we decided to slaughter all live poultry at retail outlets to break the infection cycle. After thorough cleansing and disinfection at the markets, retail sale of live poultry resumed on 16 June 2001. Before the resumption of sale of poultry, we announced a series of improvement measures including segregating live quail from other live birds and enhancing the current segregation of water birds from other live poultry. A list of these measures is at **Annex D**.

(C) Expert Advice

10. We examine once again the operational arrangements to segregate live water birds from other live birds and find that there is still room for improvement. The H5 virus carried by water birds is mostly found in their offal, especially the alimentary tract. Water bird offal are allowed to be sold at live poultry stalls without any packaging at present. Workers at retail outlets who handle offal of water birds and then handle live chickens without washing their hands could potentially transmit the virus to live chickens. The chance of cross-contamination through this route should be minimized.

(D) The Proposal

11. We **propose** to require water bird carcasses to be dressed and packed separately from offal of water birds, and offal of water birds to be packed and sealed when sold at premises where live poultry are kept. The only exception is the Western Wholesale Food Market where live water birds are slaughtered, dressed and packed. To ensure that the packing and sealing process does not take place in retail outlets where live poultry are present, we **propose** to require all offal of water birds delivered to and sold at these outlets to be packed and sealed. There should be no breaking or tampering with the packaging and sealing until the offal has been sold and taken away from the retail shop. Water bird offal delivered to and sold at retail outlets or delivered to restaurants, where no live poultry are kept, need not be subject to this requirement.

12. Most water bird offal available in the market are imported and are chilled or frozen. The offal from locally slaughtered water birds will also need to be chilled after the introduction of the packing and sealing requirement for preservation purpose. In enforcing the existing Food Business Regulation, we have all along applied the same control to both chilled and fresh food items. At present it is not explicitly stipulated in the Food Business Regulation that chilled food items are subject to the control regime provided therein. We therefore also propose to take this opportunity to amend the Food Business Regulation to put it beyond doubt that the existing control regime over fresh food items equally applies to chilled ones. The proposed amendment is beneficial to the trade and the general public as it will make clear that chilled food items are within the scope of control of the Food Business Regulation.

13. Amendments have to be made to the Food Business Regulation to give effect to the above proposal.

Impact on the Trade

(A) Segregation of Live Quail from Other Birds

14. Poultry retailers sell live quail as a sideline business. The sale of live quail is not profitable. We have consulted the retailers, they indicated that if the segregation policy is to be implemented, they would simply cease selling live quail.

15. If there is no retailing of live quail, poultry wholesalers trading quail will have to cease trading live quail as well. Like retailers, they also trade live quail as a sideline business although the quantity of quail traded by a wholesaler is larger than that sold by a retailer. Nevertheless, wholesalers should be able to restructure their business. To help them make the adjustment, we intend to waive the rental for their stalls and vehicle parking spaces in the CSWTWPM for two months, for the regular quail wholesalers, and for one month, for the occasional wholesalers.

16. There are at present a total of five quail farms in Hong Kong. None of them is known to employ any workers or own the land on which their farms stand. We will provide them with ex-gratia allowance (EGA) payment should they choose to wind up their farming activities for the lack of retail outlets for live quail. Since the practical effect of winding up their farms will be the same as if the land on which the farms stand is resumed, we will offer to the farmers EGA payment as if in a land resumption case. The EGA payment payable to quail farmer consists of the components of EGA for quail raising and EGA for agricultural structures built on poultry farms which have to be demolished on receipt of payment. If the farmers do not wish to wind up their farms, they can continue rearing quail if they can arrange appropriate retail outlet for their produce or switch to producing quail eggs. However, they would then be ineligible for any EGA payment under this exercise. In the segregation exercise for water birds and other live poultry in 1998, no such offer was made to water bird farmers because there were still retail outlets for water birds and the Government provided a dedicated wholesale market with slaughtering facilities for water birds.

17. A large quantity of the live quail consumed in Hong Kong are imported. If there is no retail outlet for live quail in the future, there will be

no market for live quail exported from the Mainland to Hong Kong. We have informed the relevant Mainland authorities of our intention to segregate live quail from other birds and the possibility that there would not be any market for live quail from the Mainland. They have responded positively and have undertaken to do their best to co-operate with us to implement this measure.

(B) Requiring Offal of Water Birds and Dressed Water Bird Carcasses to be Packed and/or Sealed for Sale

18. To comply with the requirement to pack and seal the fresh offal of water birds in the way specified in the new legislation, the wholesalers will need a chilling facility and machinery for sealing the package of offal. They already have chilling facilities installed in the wholesale market at present. The sealing machinery will require an investment of about \$1,000. The packaging materials which are likely to be plastic bags will also add a small additional cost. Retailers may require individual packaging for each small item to allow them flexibility in selling these according to customer demand and this will mean additional work to be done by the wholesalers. Where sales are to restaurants and stalls with no live poultry, the mode of packaging and delivery for direct sale from wholesalers to premises will not be subject to the sealing requirement.

19. Most water bird offal for sale in retail markets are at present chilled or frozen, and are imported from the Mainland. After commencement of the Food Business (Amendment) Regulation 2001, importers will have to ensure that the imported water bird offal delivered to premises where live poultry are present is packed and sealed.

20. As regards the packing requirements for water bird carcasses, some retailers are already packing dressed water bird carcasses individually. The new requirements should have very little impact on the operational mode or cost of the trades.

Transitional Arrangements

21. We intend to commence the three proposed Regulations as soon as practicable but time will be allowed for the trades and other affected parties to prepare for the new requirements.

22. To allow the holders of existing valid licences to sell their existing stocks of live quail, the relevant provisions of the proposed Regulations at **Annexes B and C** will only be applicable 30 days after the commencement date as live quail ready for sale can be kept up to about a month. During the transitional period of 30 days, live quail will still be allowed to be transported to and traded at the CSWTWPM. These two proposed Regulations will not apply to the existing licences that expire during the transitional period, but will take immediate effect on any new licences issued on or after commencement.

23. As retailers will still have in hand some water bird offal not packed and sealed according to the new requirement, they should be allowed the same period of time to run down their stock. Therefore the relevant provisions in Food Business (Amendment) Regulation 2001 should only be applicable to the existing valid fresh provision shop licences 30 days after the commencement date. The amendment Regulation, however, will also not apply to the existing licences ceasing to have effect within the transitional period, but will take immediate effect on any new licences issued on or after commencement.

THE REGULATIONS

24. The principal sections of the proposed Regulations are as follows-

- (a) *Public Health (Animals and Birds) (Amendment) Regulation 2001*
 - (i) Section 2 requires that quail brought into Hong Kong for the purpose of being slaughtered for food be transported separately from birds other than quail;
 - (ii) Section 4 requires that imported quail intended to be slaughtered for food be taken directly to the premises specified in animal traders licences; and
 - (iii) Section 5 requires that quail intended to be slaughtered for food be transported separately within Hong Kong from birds other than quail.

- (b) *Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2001*
- (i) Section 2 requires that quail should not be possessed for sale together with other birds at the same premises; and
 - (ii) Section 4 provides a 30-day transitional period for holders of animal traders licences still valid at the time of commencement of the proposed Regulation and after the transitional period to sell their stocks after commencement.
- (c) *Food Business (Amendment) Regulation 2001*
- (i) Section 3 imposes restrictions on the trading and delivery of fresh, chilled and frozen dressed carcasses and offal of water birds.
 - (ii) Section 4 prohibits the possession of live quail for sale with any other live poultry at the same premises and prohibits a person having possession for sale any water bird offal contained in a sealed container from tampering with the container at premises at which the offal is possessed for sale (if there are live poultry at those premises).
 - (iii) Section 8 provides a 30-day transitional period for holders of fresh provision shop licences still valid at the time of commencement of the proposed Regulation and after the transitional period to sell their stock after commencement.
 - (iv) Sections 2, 5, 6, 9 and 10 are technical amendments to provide for “chilled” as a separate category from “fresh” items to put it beyond doubt that the existing control covers both fresh and chilled items.

The existing legislation being amended are extracted at **Annex E**.

LEGISLATIVE TIMETABLE

25. The legislative timetable for the proposed Regulations at **Annexes A, B and C** will be –

Publication in the Gazette	26 October 2001
Tabling of subsidiary legislation at the Legislative Council	31 October 2001

BASIC LAW IMPLICATIONS

26. The Department of Justice advises that the proposed Regulations do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

27. The Department of Justice advises that the proposed Regulations are consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

28. The proposed Regulations will not affect the current binding effect of the Public Health (Animals and Birds) Ordinance (Chapter 139) and the Public Health and Municipal Services Ordinance (Chapter 132).

FINANCIAL AND STAFFING IMPLICATIONS

29. Waiving of the rentals for market stalls and vehicle parking spaces in CSWTWPM for two months for the regular quail wholesalers and for one month for the occasional quail wholesalers will result in a revenue loss in the region of \$280,000. Assuming all five quail farmers choose to wind up their farms and the farm structures are also owned by them, the EGA payments to be offered to them will amount to about \$1.2 million.

30. There are no additional financial and staffing implications arising from the legislative amendments that introduce the requirement for offal of water birds to be packed and sealed for sale. As regards the resources required to enforce the proposed Regulations, they will be absorbed by the Agriculture, Fisheries and Conservation (AFCD) and the Food and Environmental Hygiene Department (FEHD).

ECONOMIC IMPLICATIONS

31. Water bird offal is not a popular food item thus the overall impact on consumers should be negligible. We expect that wholesalers and retailers, whose trading of live quail is a sideline business anyway, will restructure their business by trading a larger quantity of live poultry or other game birds after the proposed Regulations to segregate live quail and other live birds come into force.

32. Weighing the overall impact on the trades and the public against the reduced risk of recurrence of avian influenza outbreak, the proposed Regulations are expected to generate net economic benefits in terms of enhanced public health.

PUBLIC CONSULTATION

33. The segregation of live quail and other live birds and the requirement for offal of water birds to be packed and sealed for sale were in the package of improvement measures that we announced before the re-opening of poultry retail stalls. FEHD has discussed this proposal with poultry retailing organizations. Poultry retailers' reaction was that the sale of live quail was not very profitable and that they would simply not sell live quail if it was Government's policy to segregate live quail and other birds.

34. AFCD has discussed this proposal with quail wholesalers and farmers. The response from wholesalers was that they were prepared to give up wholesaling of quail provided that there were compensations. One quail farmer expressed concern that there would be no outlets for his quail because setting up of dedicated retail outlets for quail was unlikely to be cost effective. The farmer requested compensation from Government to cover his business losses.

35. We have also explained to the Legislative Council on Food Safety and Environmental Hygiene our policy intention and the public health considerations behind the proposals. Members requested that financial assistance be provided to the parties affected.

36. In devising the financial assistance package set out in para 15-16, we have taken into consideration the concerns and situations of the various parties affected.

PUBLICITY

37. The proposed Regulations will be published in the Gazette on 26 October. In addition to this Legislative Council brief, we will issue a press release on the proposed Regulations on the same date. A spokesman will be available to answer media enquiries. AFCD will approach the quail farms concerned to explain to them the financial assistance package to be offered to them for choosing to wind up their farms, and will inform the quail wholesalers of the rental waiver arrangements. AFCD and FEHD will also reach out to the other affected wholesalers and retailers, and make them aware of the new requirements proposed.

ENQUIRY

38. Any enquiry on this brief should be directed to Mrs Ingrid YEUNG, Principal Assistant Secretary, Environment and Food Bureau on tel. 2136 3399 or fax 2136 3281; or Dr Les SIMS, Assistant Director, Agriculture, Fisheries and Conservation Department on tel. 2150 6602 or fax 2311 3731; or Ms Rhonda LO, Assistant Director, Food and Environmental Hygiene Department on tel. 2867 5288 or fax 2530 1368.

**Environment and Food Bureau/
Agriculture, Fisheries and Conservation Department/
Food and Environmental Hygiene Department**

October 2001

PUBLIC HEALTH (ANIMALS AND BIRDS)(AMENDMENT) REGULATION 2001

(Made by the Chief Executive in Council under
section 3 of the Public Health (Animals and
Birds) Ordinance (Cap. 139))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for the Environment and Food by notice published in the Gazette.

**2. Designated points of entry
for imported birds**

Regulation 7B of the Public Health (Animals and Birds) Regulations (Cap. 139 sub. leg.) is amended -

(a) in subregulation (2), by repealing "and";

(b) by adding -

"(2A) No quail intended to be slaughtered for
food shall be brought into Hong Kong unless -

(a) it is carried in or on a vehicle,
a vessel or an aircraft; and

(b) no other bird (other than a quail)
is carried in or on the vehicle,
vessel or aircraft at the same
time."

3. Imported birds other than quails to be taken to designated places

Regulation 9A(1) is amended by adding "(other than quails)" after "birds".

4. Regulation added

The following is added -

"9B. Imported quails to be taken to specified premises

Subject to the permission of the senior veterinary officer under regulation 7B(3), quails that are brought into Hong Kong for the purpose of being slaughtered for food shall be taken forthwith by the most direct route to the premises specified in a licence granted under regulation 5 of the Public Health (Animals and Birds)(Animal Traders) Regulations (Cap. 139 sub. leg.) as premises at which quails may be sold or offered for sale."

5. Regulation added

The following is added -

"9C. Quails to be transported separately within Hong Kong

No person shall carry -

- (a) any quail that is intended to be slaughtered for food, from one place to another, at the same time with any other bird (other than a quail); or
- (b) any quail that is intended to be slaughtered for food, in or on a vehicle, a vessel or an aircraft if the person knows that any other bird (other than

a quail) is carried in or on the same vehicle, vessel or aircraft.".

6. Penalty

Regulation 57 is amended -

- (a) in subregulation (1), by repealing "of \$2,000" and substituting "at level 1";
- (b) in subregulation (2) -
 - (i) by repealing "or (3) or 9A(1)" and substituting ", (2A) or (3), 9A(1), 9B or 9C";
 - (ii) by repealing "of \$25,000" and substituting "at level 4".

7. Designated Place

Schedule 6 is amended, in section 2, by adding "(other than quails)" after "birds".

Clerk to the Executive Council

COUNCIL CHAMBER

2001

Explanatory Note

This Regulation amends the Public Health (Animals and Birds) Regulations (Cap. 139 sub. leg.) to require that -

- (a) quails that are brought into Hong Kong for the purpose of being slaughtered for food be transported separately from birds other than quails (section 2(b));
- (b) imported quails intended to be slaughtered for food be taken directly to the premises specified in a licence granted under regulation 5 of the Public Health (Animals and Birds)(Animal Traders) Regulations (Cap. 139 sub. leg.) as premises at which quails may be sold or offered for sale (section 4); and
- (c) quails intended to be slaughtered for food be transported separately within Hong Kong from birds other than quails (section 5).

**PUBLIC HEALTH (ANIMALS AND BIRDS)(ANIMAL TRADERS)(AMENDMENT)
REGULATION 2001**

(Made by the Chief Executive in Council under
section 3 of the Public Health (Animals and
Birds) Ordinance (Cap. 139))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for the Environment and Food by notice published in the Gazette.

2. Regulation added

The Public Health (Animals and Birds)(Animal Traders) Regulations (Cap. 139 sub. leg.) are amended by adding -

**"4A. Prohibition on possessing quails
for sale with other birds**

No person shall possess for sale any quail, with any other bird (other than a quail), at the same premises."

3. Offences and penalties

(1) Regulation 13(1) is amended by repealing "of 2,000 dollars" and substituting "at level 1".

(2) Regulation 13(2) is amended -

(a) in subparagraph (b), by adding "4A," after "4(1)(b),";

(b) by repealing "of 1,000 dollars" and substituting "at level 3".

4. Regulation added

The following is added -

"15. Transitional arrangement for existing licence

(1) The amendments in the Amendment Regulation apply, with effect from the specified date but not earlier, in relation to a holder of a licence which is in force immediately before the commencement date and is in force on the specified date.

(2) The amendments in the Amendment Regulation do not apply in relation to a holder of a licence which -

(a) is in force immediately before the commencement date and is in force on that date; but

(b) ceases to have effect on or before the specified date.

(3) In this regulation -

"Amendment Regulation" (《修訂規例》) means the Public Health

(Animals and Birds)(Animal Traders)(Amendment) Regulation 2001 (L.N. of 2001);

"commencement date" (生效日期) means the date on which the

Amendment Regulation comes into operation;

"specified date" (指明日期) means the date next following the

expiry of the period of 30 days beginning on the commencement date."

Clerk to the Executive Council

COUNCIL CHAMBER

2001

Explanatory Note

This Regulation amends the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139 sub. leg.) ("the principal Regulation") to require that quails should not be possessed for sale together with other birds (other than quails) at the same premises (section 2). Furthermore, the penalties in respect of contravention of certain provisions under the principal Regulation are also increased (section 3(2)(b)).

2. It is also clarified that the amendments -

- (a) apply, with effect from the specified date, in relation to a holder of an animal trader licence which is in force immediately before the commencement of this Regulation and is in force on the specified date; and
- (b) do not apply in relation to a holder of an existing animal trader licence which ceases to have effect on or before the specified date.

(Note: the term "specified date" (指明日期) is defined to mean the date next following the expiry of the period of 30 days beginning on the date of commencement of this Regulation)(section 4).

FOOD BUSINESS (AMENDMENT) REGULATION 2001

(Made under section 56 of the Public Health and
Municipal Services Ordinance (Cap. 132))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Director of Food and Environmental Hygiene by notice published in the Gazette.

2. Interpretation

Section 3(1) of the Food Business Regulation (Cap. 132 sub. leg.) is amended by adding -

"fresh" (新鮮) in relation to beef, fish, game, meat, mutton, offal, pork, a poultry carcass, a reptile or shell fish, means beef, fish, game, meat, mutton, offal, pork, a poultry carcass, a reptile or shell fish which has not been subjected to a process of preservation;".

**3. Restriction on sale, etc.
of specified articles**

Section 30 is amended -

(a) by adding -

"(1A) Save with the permission in writing of the Director, no person shall sell, or offer or expose for sale, or possess for sale a fresh, chilled or frozen water bird carcass -

(a) at premises where there are live poultry, unless the water bird carcass -

(i) is a dressed water bird carcass; and

(ii) is packed separately in a container closed in a manner that ensures that the carcass is securely contained within it; and

(b) at any other premises, unless the water bird carcass -

(i) is a dressed water bird carcass; and

(ii) is packed separately or only with one or more other water bird carcasses in a container.

(1B) Subsection (1A)(a) does not apply in relation to the sale, or offer or exposure for sale, or possession for sale of any water bird carcass at the Western Wholesale Food Market.

(1C) Save with the permission in writing of the Director, no person shall deliver or cause to be delivered -

(a) to premises where there are live poultry, or to any person at such

premises, for the purpose of sale,
a fresh, chilled or frozen water
bird carcass, unless the water
bird carcass -

(i) is a dressed water bird
carcass; and

(ii) is packed separately in
a container closed in a
manner that ensures
that the carcass is
securely contained
within it; and

(b) to any other premises, or to any
person at such premises, for the
purpose of sale, a fresh, chilled
or frozen water bird carcass,
unless the water bird carcass -

(i) is a dressed water bird
carcass; and

(ii) is packed separately or
only with one or more
other water bird
carcasses in a
container closed in a
manner that ensures
that the carcass or
carcasses is or are
securely contained
within it.

(1D) Subsection (1C)(a) does not apply in relation to the delivery of any water bird carcass within the Western Wholesale Food Market.

(1E) Save with the permission in writing of the Director, no person shall sell, or offer or expose for sale, or possess for sale -

(a) at premises where there are live poultry any fresh, chilled or frozen offal removed from a water bird, unless the offal is packed, separately or only with the offal removed from the same or any other water bird, in an unopened hermetically sealed container; and

(b) at any other premises any fresh, chilled or frozen offal removed from a water bird, unless the offal is packed, separately or only with the offal removed from the same or any other water bird, in a container.

(1F) Subsection (1E)(a) does not apply in relation to the sale, or offer or exposure for sale, or possession for sale of any offal of a water bird at the Western Wholesale Food Market.

(1G) Save with the permission in writing of the Director, no person shall deliver or cause to be delivered -

- (a) to premises where there are live poultry, or to any person at such premises, for the purpose of sale, any fresh, chilled or frozen offal removed from a water bird, unless the offal is packed, separately or only with the offal removed from the same or any other water bird, in an unopened hermetically sealed container; and
- (b) to any other premises, or to any person at such premises, for the purpose of sale, any fresh, chilled or frozen offal removed from a water bird, unless the offal is packed, separately or only with the offal removed from the same or any other water bird, in a container.

- (1H) Subsection (1G)(a) does not apply in relation to the delivery of any offal of a water bird within the Western Wholesale Food Market.";
- (b) in subsection (2), by adding ", (1A), (1C), (1E) or (1G)" after "(1)";
 - (c) in subsection (5), by adding ", (1A), (1C), (1E) or (1G)" before ", either";
 - (d) by adding -

"(7) For the purposes of this section,
"dressed water bird carcass" (經處理的水禽屠體)

means a water bird carcass from which the alimentary tract, liver and feathers have been removed."

4. Sections added

The following are added in Part III -

"30B. Restriction on possession for sale of live quails

A person shall not possess for sale live quails with any other live poultry at the same premises.

30C. Further restrictions on trading of fresh, chilled and frozen offal of water birds at retail level

(1) Unless with reasonable excuse, no person having possession for sale any offal of a water bird contained in a sealed container shall -

(a) open; or

(b) in any other way tamper with,

the container at premises at which the offal is possessed for sale, if there are live poultry at those premises.

(2) This section does not apply in relation to the Western Wholesale Food Market.

(3) In this section, "sealed container" (加封容器) means a container required to be sealed in accordance with section 30(1E)(a)."

5. Licensing of food business

Section 31(2) is amended, in the expression "fresh provision shop", by adding ", chilled or" after "of fresh".

6. Additional requirement for issue of licence for siu mei and lo mei shops

Section 33A is amended by adding "or chilled" after "fresh".

7. Offences and penalties

Section 35(1)(a) and (3)(a) is amended by repealing "30A" and substituting "(1A), (1C), (1E) or (1G), 30A, 30B, 30C(1)".

8. Section added

The following is added -

"37. Transitional arrangement for existing licence holders

(1) The amendments in the Amendment Regulation apply, with effect from the specified date but not earlier, in relation to a holder of a licence which -

- (a) is granted under section 31 in respect of a fresh provision shop; and
- (b) is in force immediately before the commencement date and is in force on the specified date.

(2) The amendments in the Amendment Regulation do not apply, in relation to a holder of a licence which is granted under section 31 in respect of a fresh provision shop and which -

- (a) is in force immediately before the commencement date and is in force on that date; but
- (b) ceases to have effect on or before the specified date.

(3) In this section -

"Amendment Regulation" (《修訂規例》) means the Food Business (Amendment) Regulation 2001 (L.N. of 2001);

"commencement date" (生效日期) means the date on which the Amendment Regulation comes into operation;

"specified date" (指明日期) means the date next following the expiry of the period of 30 days beginning on the commencement date."

9. Prohibited Foods

Schedule 1 is amended, in item 2, by adding ", chilled" after "Fresh".

10. Restricted Foods

Schedule 2 is amended -

- (a) in items 1, 2 and 5, by adding ", chilled" after "Fresh";
- (b) in item 3, by adding ", chilled" after "Fresh";
- (c) in item 4(c), by adding ", chilled" after "Fresh".

Director of Food and Environmental
Hygiene

2001

Explanatory Note

This Regulation amends the Food Business Regulation (Cap. 132 sub. leg.) and imposes restrictions on the trading of fresh, chilled and frozen carcasses and offal of water birds (section 3 and new section

30C in section 4). Contravention of any of those restrictions constitutes an offence (section 7).

2. This Regulation also prohibits the possession for sale, at retail outlets, of live quails together with any other live poultry at the same premises (new section 30B in section 4).

3. It is also clarified that the amendments -

- (a) apply, with effect from the specified date, in relation to a holder of a fresh provision shop licence which is in force immediately before the commencement of this Regulation and is in force on the specified date; and
- (b) do not apply in relation to a holder of an existing fresh provision shop licence which ceases to have effect on or before the specified date.

(Note: the term "specified date" (指明日期) is defined to mean the date next following the expiry of the period of 30 days beginning on the date of commencement of this Regulation)(section 8).

4. Other technical amendments are also introduced in this Regulation (sections 2, 5, 6, 9 and 10).

Improvement Measures

After critical examination of the entire supply flow of live poultry, a series of improvement measures have been introduced as described below:-

Segregation of Live Quail from Other Live Birds

- Wholesalers and retailers are advised that live quails and other live birds should be segregated at all levels.

Strengthening the Segregation of Water Birds from Live Chickens

- Live geese will continue to be transported by boat directly to the Western Wholesale Market for slaughter. Vehicles transporting live ducks are not allowed to deliver live chickens to prevent interchangeable use of cages for these two types of poultry.
- Wholesalers and retailers are advised that carcasses and offal of water birds should be separately packed, and offal of water birds must be packed and sealed before they are sold at premises where other live poultry are present.

Measures to Improve the Hygiene Condition of Wholesaler Markets and Retail Outlets

- Prior to the re-opening of retail outlets on 16 June 2001, thorough cleansing and disinfection were conducted under the supervision of FEHD. The ventilation systems of all poultry stalls in markets were also thoroughly cleansed.
- Ventilation of poultry stalls was improved to enhance air circulation and reduce indoor temperature there e.g. exhaust fans were installed in some scalding rooms to improve the ventilation.

- Arrangements were made for workers in the poultry trade to attend hygiene seminars. The seminars cover proper ways of delivering, storing, scalding and handling live poultry as well as the hygiene standard of poultry stalls.

New Hygiene Conditions and Guidelines for Retail Outlets

New conditions for tenancy agreement/ licence and new hygiene guidelines for poultry retail outlets have been introduced. The major points in these conditions and guidelines are the following -

- the number of chickens in each cage should be in accordance with the density recommended by veterinary surgeons;
- stall operators should avoid stacking up too many cages;
- stall operators should report the number of chicken deaths to FEHD every day;
- stall operators should use handcarts with bottom plates in moving poultry and cages to keep market passageways clean; and
- cages for chickens should be sent back to the wholesale market for cleansing soon after the chickens are unloaded.

Rest Day for Cleansing

- A rest day in every month is specified for cleansing poultry wholesale markets and retail outlets. On the rest days, traders will suspend the sale of live poultry and vacate their stalls for thorough cleansing and disinfection to break the virus cycle.
- In addition to the existing staff already stationed in markets, FEHD has already deployed more Health Inspectors to inspect markets and other retail outlets to enforce the new hygiene conditions. The Health Inspectors will also supervise the thorough cleansing by stall operators on "rest days" to ensure the hygiene standard.

Farms

- Publicity has been stepped up to inform farmers of the importance of preventing bird diseases and maintaining the hygiene standard of farms.
- Licensing conditions for farms will be amended to prohibit the return of unsold chickens from markets to farms.

Avian Flu Surveillance System

A review of the surveillance system was conducted after the incident to identify areas for further improvements. After the review, the following improvements have been made-

- increase the number of blood samples taken from chickens at the border;
- take blood samples, in addition to taking faecal samples, from chickens in wholesale markets for testing;
- take samples of dead chickens at wholesale markets for testing on a regular basis;
- take samples of dead chickens at retail markets for testing on a regular basis; and
- enhance the reporting mechanism on death of chickens in markets.

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Chapter:	139A	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) REGULATIONS	Gazette Number:	L.N. 165 of 1998
Regulation:	7B	Heading:	Designated points of entry for imported birds	Version Date:	27/02/1998

DESIGNATED POINTS OF ENTRY FOR IMPORTED BIRDS

(1) No bird intended to be slaughtered for food shall be brought into Hong Kong otherwise than through the relevant designated point of entry specified in Schedule 5.

(2) No water bird intended to be slaughtered for food shall be brought into Hong Kong unless it is carried in or on a vehicle, vessel or an aircraft and in or on which no bird other than a water bird is carried at the same time.

(3) No bird which is brought into Hong Kong for the purpose of being slaughtered for food shall be removed from the relevant designated point of entry except with the permission of the senior veterinary officer.

(4) The Director may, by notice in the Gazette, amend Schedule 5.

(L.N. 165 of 1998)

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Chapter:	139A	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) REGULATIONS	Gazette Number:	L.N. 165 of 1998
Regulation:	9A	Heading:	Imported birds to be taken to designated places	Version Date:	27/02/1998

(1) Subject to the permission of the senior veterinary officer under regulation 7B(3), the birds which are brought into Hong Kong for the purpose of being slaughtered for food shall be taken forthwith by the most direct route to the relevant designated place specified in Schedule 6, and no water bird shall be carried in or on the same vehicle with a bird other than a water bird.

(2) The Director may, by notice in the Gazette, amend Schedule 6.

(L.N. 165 of 1998)

Chapter:	139A	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) REGULATIONS	Gazette Number:	L.N. 165 of 1998
Regulation:	57	Heading:	Penalty	Version Date:	27/02/1998

Expanded Cross Reference:

9, 10, 11, 20, 21, 22, 23, 24, 31, 32, 33, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54

(1) Any person who acts in contravention of regulation 1, 2, 3, 4(1), 5, 7, 9 to 11, 13, 20 to 24, 31 to 33, 36, 36C, 36D, 40, 43 to 46, 48 to 54 or 56 or who fails to comply with a direction given under regulation 4(1A) or (2) or who fails to comply with a notice given under regulation 36A shall be liable on summary conviction to a fine of \$2000, as well as to suffer any forfeiture that may be prescribed therein. <* Note-Exp. x-Ref: Regulations 9, 10, 11, 20, 21, 22, 23, 24, 31, 32, 33, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54 *> (L.N. 44 of 1998)

(2) Any person who acts in contravention of regulation 7A, 7B(1), (2) or (3) or 9A(1) shall be liable on summary conviction to a fine of \$25000 as well as to suffer any forfeiture. (L.N. 44 of 1998; L.N. 165 of 1998)

(G.N.A. 87 of 1951; G.N.A. 54 of 1956; G.N.A. 89 of 1962; L.N. 3 of 1970; L.N. 160 of 1977; L.N. 78 of 1988)

Chapter:	139A	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) REGULATIONS	Gazette Number:	L.N. 165 of 1998
Schedule:	6	Heading:	DESIGNATED PLACE	Version Date:	27/02/1998

[regulations 1A & 9A]

1. In the case of water birds which are brought into Hong Kong for the purpose of being slaughtered for food, the poultry market section in the Western Wholesale Food Market.

2. In the case of other birds which are brought into Hong Kong for the purpose of being slaughtered for food, Cheung Sha Wan Temporary Wholesale Poultry Market.

(L.N. 165 of 1998)

Chapter:	139B	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) (ANIMAL TRADERS) REGULATIONS	Gazette Number:	
Regulation:	13	Heading:	Offences and penalties	Version Date:	30/06/1997

- (1) Any person who contravenes regulation 4(1)(a), 11 or 12 shall be guilty of an offence and shall be liable on conviction to a fine of 2000 dollars. (L.N. 410 of 1990)
- (2) A licensed animal trader who contravenes-
- (a) any condition specified in his licence; or
 - (b) regulation 4(1)(b), 7, 9 or 10, (L.N. 410 of 1990)
- shall be guilty of an offence and shall be liable on conviction to a fine of 1000 dollars.

Chapter:	132X	Title:	FOOD BUSINESS REGULATION	Gazette Number:	L.N. 320 of 1999; L.N. 331 of 1999
Section:	3	Heading:	Interpretation	Version Date:	01/01/2000

- (1) In this Regulation, unless the context otherwise requires-
- "air conditioning plant" (空氣調節機) includes any kind of mechanical ventilation system which contains a device for reducing or increasing the temperature of the air in any building or any part thereof below or above the temperature of the external air;
- "bottled" (瓶裝) means contained in an unopened hermetically sealed bottle, tin or container;
- "Director" (署長) means the Director of Food and Environmental Hygiene; (78 of 1999 s. 7)
- "dressed poultry carcass" (經處理的家禽屠體) means a poultry carcass from which the offal or feathers have been removed; (L.N. 171 of 1998)
- "food business" (食物業) has the meaning assigned to it in section 4; (78 of 1999 s. 7)
- "food premises" (食物業處所) means any premises on or from which there is carried on any food business and the expression "premises" (處所) includes a vessel and a stall;
- "food room" (食物室) means any room, (being, or being part of, any food premises) where any person engages in the handling of open food or in the cleaning of equipment for the purposes of a food business, but does not include a room in which the only handling of food which occurs is in the course of serving food for consumption therein;
- "latrine fitment" (廁所設備) means a fitment containing a receptacle for excrement, which is removable; (L.N. 495 of 1993)
- "meat" (肉類) means the flesh of-
- (a) cattle (including buffaloes), goats, sheep and swine; and
 - (b) horses, mules, hinnies and donkeys, if intended for human consumption;
- "offal" (什臟) means the internal organs or intestines of a poultry; (L.N. 171 of 1998)
- "open food" (未加掩蓋的食物) means-
- (a) uncooked perishable food; and
 - (b) food not contained in a container of such materials, and so closed, as to exclude all risk of contamination,
- but does not include raw vegetables and uncut fruit or any food which has to be subjected to a process of milling, refining or cooking (other than food referred to at (a) and food in the course of preparation) for the purpose of rendering it fit for human consumption;
- "plan" (圖則) includes a sketch;
- "poultry carcass" (家禽屠體) means the body of a dead poultry; (L.N. 171 of 1998)
- "preparation" (配製) in relation to food includes manufacture and any form of cooking or other treatment or preparation for sale;
- "proprietor" (東主) means the owner of or the person for the time being appearing to have charge of a food business and in the case of a licensed food business the licensee thereof;
- "sanitary fitment" (生設備) includes any kind of ablution or sanitary facility;
- "sashimi" (刺身) means food consisting of fillets of marine fish, molluscs, crustaceans, fish roe or other

seafood to be eaten in raw state; (L.N. 407 of 1996)

"shell fish" (介貝類水產動物) means molluscs and crustaceans, but does not include molluscs or crustaceans in the form of sashimi or forming part of sushi, or oyster to be eaten in its raw state; (L.N. 407 of 1996; 78 of 1999 s. 7)

"soil drain" (污水渠) means any pipe or gutter which receives soil matter or which receives waste from a sanitary convenience;

"soil fitment" (污水設備) means a water-closet fitment, trough water-closet, urinal, slop sink, bidet or any similar fitment; (L.N. 495 of 1993)

"stall" (攤檔) includes any stand, marquee, mobile canteen, and any vehicle whether movable or not which is used for the sale of food;

"sushi" (壽司) means food consisting of cooked and pressed rice flavoured with vinegar and garnished with other food ingredients including raw or cooked or vinegared seafood, marine fish or shellfish roe, vegetable, cooked meat or egg on top or in the middle which may or may not be wrapped with seaweed and usually served in pieces; (L.N. 407 of 1996)

"vending machine" (售賣機) means a coin-operated automatic vending machine; (L.N. 212 of 1973)

"water bird" (水禽) means any bird that ordinarily lives on or feeds in water which may be used for human consumption and includes ducks and geese; (L.N. 171 of 1998)

"wholesale market" (批發市場) means any wholesale market established by the Director of Marketing or the Director of Agriculture, Fisheries and Conservation, but does not include the Western Wholesale Food Market. (L.N. 171 of 1998; 78 of 1999 s. 7; L.N. 331 of 1999)

(78 of 1999 s. 7)

(2) A person shall be deemed for the purposes of this Regulation to engage in the handling of food if for the purposes of a food business he carries out or assists in the carrying out of any process or operation in the sale of food or in the preparation, transport, storage, packing, wrapping, exposure for sale, service, or delivery of food.

(3) For the purposes of this Regulation, the supply of food, otherwise than by sale at, in or from any place where food is supplied in the course of a business, shall be deemed to be a sale of that food, and references to purchasing and purchasers shall be construed accordingly; and where in connection with any business in the course of which food is supplied the place where food is served to the customers is different from the place where the food is prepared, both those places shall be deemed to be places in which food is sold.

(4) In determining for the purposes of this Regulation whether any matter involves risk of contamination to any food, regard shall be had to the extent to which contamination in the respect in question is immaterial because of-

- (a) the nature of the food; or
- (b) the manner in which the food is packed; or
- (c) any process to which the food is to be subjected before sale to the consumer, being a process to which food of that nature is normally so subjected.

(10 of 1986 s. 32(2); 78 of 1999 s. 7)

Chapter:	132X	Title:	FOOD BUSINESS REGULATION	Gazette Number:	L.N. 320 of 1999
Section:	30	Heading:	Restriction on the sale, etc. of articles specified in Schedule 2	Version Date:	01/01/2000

- (1) Save with the permission in writing of the Director, no person shall-
- (a) sell or offer or expose for sale, or possess for sale or for use in the preparation of any article of food for sale, any of the foods specified in items 1 to 5 inclusive, items 9 to 14 inclusive and items 16 to 21 inclusive of Schedule 2: (L.N. 212 of 1973; L.N. 407 of 1996; L.N. 1 of 1999)

Provided that this paragraph shall not apply to the hawking of live poultry in any place or area for the time being set aside by the Director pursuant to section 4(1)(a) of the Hawker Regulation (Cap 132 sub. leg.);
 - (b) sell or offer or expose for sale, or possess for sale any of the foods specified in items 6, 7, 8 and 15 of Schedule 2 unless such food is contained in an unopened hermetically sealed container; or
 - (c) possess for use in the preparation of any article of food for sale any of the foods specified in items 6, 7, 8 and 15 of Schedule 2 unless such food is, until the time it is about to be so used, contained in an unopened hermetically sealed container. (L.N. 125 of 1970)
- (2) Every permission granted under subsection (1) shall-
- (a) if granted to an applicant who is already in possession of a valid licence granted by the Director under any of the following Regulations, namely-
 - (i) this Regulation,
 - (ii) the Milk Regulation (Cap 132 sub. leg.),
 - (iii) the Frozen Confections Regulation (Cap 132 sub. leg.),
 - (iv) the Hawker Regulation (Cap 132 sub. leg.),
 be granted free of charge and shall be valid for so long as the licence is valid;
 - (b) if granted to an applicant who is the lessee of a market stall leased to him-
 - (i) by the Director under the provisions of the Public Markets Regulation (Cap 132 sub. leg.), or
 - (ii) by the owner, within the meaning of the Private Markets Regulation (Cap 132 sub. leg.), of a private market under the provisions of that Regulation, be granted free of charge and shall be valid for the duration of the lease; and
 - (c) if granted to an applicant to whom neither paragraph (a) nor paragraph (b) applies, be valid for a period of 12 months from and including the date on which such permission is granted and shall be granted subject to the payment in advance to the Director of the prescribed fee. (L.N. 495 of 1993; L.N. 85 of 1995)
- (3) Where the Director is satisfied that any permission granted under this section has been lost, destroyed or accidentally defaced, the Director may, upon payment of the prescribed fee, issue a duplicate thereof. (L.N. 209 of 1983; L.N. 33 of 1987; L.N. 63 of 1988; L.N. 54 of 1991; L.N. 54 of 1992; L.N. 59 of 1993; L.N. 142 of 1994; L.N. 85 of 1995)
- (4) For the avoidance of doubt, nothing in this section shall be construed to exempt any person from complying with any other licensing requirements prescribed by this or any other Regulation.
- (5) The Director may, by notice in the Gazette, exempt from all or any of the prohibitions in subsection (1), either generally or in any particular case, the following persons or any such person or class of such persons-
- (a) any person who holds a licence granted under subsection (1) of section 31 or who is

exempt from the prohibition in that subsection pursuant to a notice under subsection (7) of the said section;

(b) any person who holds a licence granted under the Milk Regulation (Cap 132 sub. leg.) or the Frozen Confections Regulation (Cap 132 sub. leg.) or a specified kind of licence granted under the Hawker Regulation (Cap 132 sub. leg.);

(c) any person who is a lessee of a market stall referred to in subsection (2)(b). (L.N. 181 of 1978)

(6) An exemption granted under subsection (5) may be amended or revoked at any time by the Director by notice in the Gazette. (L.N. 181 of 1978)

(10 of 1986 s. 32(2); 78 of 1999 s. 7)

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Chapter:	132X	Title:	FOOD BUSINESS REGULATION	Gazette Number:	L.N. 320 of 1999
Section:	31	Heading:	Licensing of food business	Version Date:	01/01/2000

PART IV

LICENSING OF CERTAIN FOOD BUSINESSES

(1) Subject to section 33C, except under and in accordance with a licence granted by the Director under this Regulation, no person shall carry on or cause, permit or suffer to be carried on any of the following food businesses- (L.N. 212 of 1973; L.N. 493 of 1995)

(a) any food factory, not being a milk factory or a frozen confection factory; or

(b) any restaurant; or

(ba) any factory canteen; or (L.N. 175 of 1980)

(c) any siu mei or lo mei shop; or

(d) any fresh provision shop; or

(e) any cold store. (L.N. 125 of 1970)

(2) For the purposes of this Regulation, the expression- (L.N. 493 of 1995)

"cold store" (凍房) means any warehouse in which articles of food are stored under refrigeration; (L.N. 125 of 1970)

"factory" (工廠) has the meaning assigned to it by section 2(1) of the Factories and Industrial Undertakings Ordinance (Cap 59); (L.N. 175 of 1980)

"factory building" (工廠大廈) means any building which contains one or more factories; (L.N. 175 of 1980)

"factory canteen" (工廠食堂) means any food business in a factory building which involves the sale or supply of meals or unbottled non-alcoholic drinks other than Chinese herb tea for consumption on the premises by persons employed in any factory in that factory building, but does not include a restaurant or any business carried on by a hawker who is the holder of a licence under the Hawker Regulation (Cap 132 sub. leg.); (L.N. 175 of 1980; 78 of 1999 s. 7)

"food factory" (食物製造廠) means any food business which involves the manufacture or preparation of food for sale for human consumption off the premises, but does not include a frozen confection factory, a milk factory or any business carried on by a hawker who is the holder of a licence under the Hawker Regulation (Cap 132 sub. leg.); (L.N. 125 of 1970; 78 of 1999 s. 7)

"fresh provision shop" (新鮮糧食店) means any food business which involves the sale of fresh frozen beef, mutton, pork, reptiles (including live reptiles), fish (including live fish) or poultry (including live poultry), but does not include a restaurant, factory canteen, market stall or any business carried on by a hawker who is the holder of a licence under the Hawker Regulation (Cap 132 sub. leg.); (L.N. 125 of 1970; L.N. 212 of 1973; L.N. 152 of 1976; L.N. 175 of 1980; 78 of 1999 s. 7)

"frozen confection factory" (冰凍甜點製造廠) means any food business which involves, within the meaning of the Frozen Confections Regulation (Cap 132 sub. leg.), the manufacture of any frozen confection; (78 of 1999 s. 7)

"full licence" (正式牌照) means a licence other than a provisional licence or a temporary licence; (L.N. 493 of 1995)

"licensee" (持牌人) means a person to whom a full licence, a provisional licence or a temporary licence has been granted under this Regulation; (L.N. 493 of 1995; 78 of 1999 s. 7)

"milk factory" (奶品廠) means any food business which involves, within the meaning of the Milk Regulation (Cap 132 sub. leg.), the processing or reconstitution of milk or any milk beverage; (L.N. 216 of 1977; 78 of 1999 s. 7)

"provisional licence" (暫准牌照) means a licence granted under section 33C; (L.N. 493 of 1995; 78 of 1999 s. 7)

"restaurant" (食肆) means any food business which involves the sale of meals or unbottled non-alcoholic drinks other than Chinese herb tea, for consumption on the premises, but does not include a factory canteen or any business carried on by a hawker who is the holder of a licence under the Hawker Regulation (Cap 132 sub. leg.); (L.N. 125 of 1970; L.N. 175 of 1980; 78 of 1999 s. 7)

"siu mei and lo mei shop" (燒味及滷味店) means any food business which involves the sale by retail of siu mei or lo mei, but does not include a restaurant, factory canteen or any business carried on by a hawker who is the holder of a licence under the Hawker Regulation (Cap 132 sub. leg.); (L.N. 125 of 1970; L.N. 175 of 1980; 78 of 1999 s. 7)

"temporary licence" (臨時牌照) means a licence granted under proviso (b) to section 31(5). (L.N. 493 of 1995; 78 of 1999 s. 7)

(3) Without prejudice to anything contained in the Ordinance relating to licences, any licence granted under this section may be subject to any or all of the following conditions-

- (a) a condition prohibiting or restricting the carrying on at or from the food premises to which such licence relates of any particular kind of food business;
- (b) a condition prohibiting or restricting the carrying on at or from the food premises to which such licence relates of any kind of business other than that specified in the licence;
- (c) a condition prohibiting or restricting the sale to customers at or from the food premises to which such licence relates of any food or drink or any class of food or drink other than such food or drink or class of food or drink as may be specified in the licence. (L.N. 125 of 1970)

(4) A full licence shall be valid for a period of 12 months from and including the date of its issue. (L.N. 493 of 1995)

(5) The grant or renewal of a full licence shall be subject to the payment in advance to the Director of the prescribed fee for the class of licence issued: (L.N. 493 of 1995)

Provided-

- (a) (Repealed L.N. 495 of 1993)
- (b) that a temporary licence for any period not exceeding 7 days may be granted upon payment of the prescribed fee. (L.N. 209 of 1983; L.N. 33 of 1987; L.N. 63 of 1988; L.N. 97 of 1989; L.N. 74 of 1990; L.N. 54 of 1991; L.N. 54 of 1992; L.N. 59 of 1993; L.N. 142 of 1994; L.N. 85 of 1995)

(6) Where the Director is satisfied that any licence granted under this Regulation is lost, destroyed or accidentally defaced, the Director may, upon payment of the prescribed fee, issue a duplicate thereof.

(L.N. 209 of 1983; L.N. 33 of 1987; L.N. 63 of 1988; L.N. 97 of 1989; L.N. 74 of 1990; L.N. 54 of 1991; L.N. 54 of 1992; L.N. 59 of 1993; L.N. 142 of 1994; L.N. 85 of 1995)

(7) The Director may, by notice in the Gazette, exempt from the prohibition in subsection (1), either generally or in any particular case, any person who carries on any food business or class of food business mentioned in that subsection. (L.N. 181 of 1978)

(8) An exemption granted under subsection (7) may be amended or revoked at any time by the Director by notice in the Gazette. (L.N. 181 of 1978)

(10 of 1986 s. 32(2); 78 of 1999 s. 7)

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Chapter:	132X	Title:	FOOD BUSINESS REGULATION	Gazette Number:	L.N. 320 of 1999
Section:	33A	Heading:	Additional requirement for issue of licence for siu mei and lo mei shops	Version Date:	01/01/2000

No licence shall be granted by the Director in respect of a siu mei or lo mei shop unless the Director is satisfied that the premises in respect of which the application is made are not being used for the sale of fresh meat.

(L.N. 125 of 1970; 10 of 1986 s. 32(2); L.N. 349 of 1998; 78 of 1999 s. 7)

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Chapter:	132X	Title:	FOOD BUSINESS REGULATION	Gazette Number:	L.N. 320 of 1999
Section:	35	Heading:	Offences and penalties	Version Date:	01/01/2000

PART V

OFFENCES AND MISCELLANEOUS

- (1) Any person who-
 - (a) contravenes any of the provisions of section 5(1), (2) or (3), 6, 7, 7A, 8, 9, 10, 10A(1), 10B(1) or (2), 11, 12, 12A(1), 13, 14, 15A, 17, 18, 19, 20, 21, 22, 23(1), 23A(1), 24(1) or (4), 25(2) or (3), 28, 29, 30(1), 30A, 31(1), 34, 34A, 34B, 34C or 34D; (L.N. 121 of 1965; L.N. 247 of 1972; 61 of 1976 s. 7; L.N. 218 of 1984; L.N. 291 of 1987; L.N. 495 of 1993; L.N. 447 of 1994; L.N. 464 of 1994; L.N. 493 of 1995; L.N. 561 of 1996; L.N. 171 of 1998)
 - (b) (Repealed L.N. 181 of 1978)
 - (c) being a person engaged in the course of any food business, in any food room or in any room in which food is served or in the handling of open food-
 - (i) fails to submit himself to medical examination when required to do so under section

- 24(2); or
- (ii) fails to cease to work or to take part in any food business when required to do so by the provisions of that subsection,

shall be guilty of an offence.

(2) In the event of any contravention of any of the provisions of section 15, 16 or 27, the licensee of the food business in relation to which the contravention occurred shall be guilty of an offence.

(3) Any person who is guilty of an offence under this Regulation shall be liable on summary conviction to a fine and imprisonment as follows and, where the offence is a continuing offence, to an additional fine as follows for each day during which it is proved to the satisfaction of the court that the offence has continued-

- (a) in the case of an offence under section 29, 30(1), 30A or 31(1) a fine at level 5, imprisonment for 6 months and \$900 for each day as aforesaid; (L.N. 454 of 1995; L.N. 177 of 1996; L.N. 171 of 1998)
- (b) in the case of any other offence mentioned in subsection (1) or (2), or an offence under section 5(5), a fine at level 3, imprisonment for 3 months and \$300 for each day as aforesaid. (L.N. 181 of 1978; L.N. 175 of 1980; L.N. 291 of 1987; L.N. 177 of 1996)
(10 of 1986 s. 32(2); 78 of 1999 s. 7)

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Chapter:	132X	Title:	FOOD BUSINESS REGULATION	Gazette Number:	L.N. 320 of 1999
Schedule:	1	Heading:	PROHIBITED FOODS	Version Date:	01/01/2000

[section 29]
(78 of 1999 s. 7)

Item	Description of food
1.	The following Chinese dishes- Yu Sang (魚生).
2.	Fresh or frozen meat of animals which have not been slaughtered in a Government slaughterhouse or in a slaughterhouse approved by the Director except where such meat was lawfully imported into Hong Kong in accordance with the Imported Game, Meat and Poultry Regulations (Cap 132 sub. leg.). (78 of 1999 s. 7)
3.	Shell fish which has been collected in contravention of section 28 of this Regulation. (78 of 1999 s. 7)

(L.N. 78 of 1972; 10 of 1986 s. 32(2))

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Chapter:	132X	Title:	FOOD BUSINESS REGULATION	Gazette Number:	L.N. 320 of 1999
Schedule:	2	Heading:	RESTRICTED FOODS	Version Date:	01/01/2000

[section 30]
(78 of 1999 s. 7)

Item	Description of food
1.	Fresh or frozen meat, excluding meat specified in Schedule 1
2.	Fresh or frozen game
3.	Fresh, frozen or live fish, excluding live fish on a fish farm
4.	(a) Live water birds, excluding live water birds on a poultry farm or in a wholesale market (b) Other live poultry, excluding live poultry on a poultry farm or in a wholesale market (c) Fresh or frozen poultry carcass (L.N. 171 of 1998)
5.	Fresh or frozen shell fish, excluding shell fish specified in Schedule 1
6.	Imported cooked or dried meat or imported meat which has been otherwise treated or prepared
7.	Imported intestines or other parts of any animal which are prepared in the form of sausage casings
8.	Imported pies, sausages or other prepared or manufactured articles of food which contain any meat or cooked or dried meat other than fat
9.	Milk or any milk beverage, being milk or a milk beverage to which the Milk Regulation (Cap 132 sub. leg.) apply, other than sterilized milk or milk beverage approved under section 4(2) thereof (78 of 1999 s. 7)
10.	(a) Soft ice cream (b) Other frozen confections
11.	Chinese herb tea
12.	Non-bottled drinks
13.	Siu Mei (燒味) or Lo Mei (滷味)
14.	Cut fruit
15.	Leung Fan (涼粉)
16.	Man Tau Lo (饅頭籮)
17.	Food sold by means of a vending machine
18.	Sashimi (L.N. 407 of 1996)
19.	Sushi (L.N. 407 of 1996)
20.	Oyster to be eaten in raw state (L.N. 407 of 1996)
21.	Meat to be eaten in raw state (L.N. 1 of 1999)

(L.N. 142 of 1994; L.N. 85 of 1995)