

## **ITEM FOR FINANCE COMMITTEE**

### **HEAD 22 – AGRICULTURE, FISHERIES AND CONSERVATION DEPARTMENT**

#### **Subhead 700 General non-recurrent**

**New item “Ex-gratia payments to live poultry farmers, wholesalers and related transporters and one-off grants to assist affected live poultry farm, wholesale and transport workers under the buyout package”**

### **HEAD 49 – FOOD AND ENVIRONMENTAL HYGIENE DEPARTMENT Subhead 700 General non-recurrent**

**New item “Ex-gratia payment and compensation to live poultry retailers and one-off grant to assist affected live poultry retail workers under the buyout package”**

Members are invited to –

#### **For Agriculture, Fisheries and Conservation Department (Head 22 Subhead 700)**

- (a) approve the creation of a new commitment of \$520.5 million for –
  - (i) making ex-gratia payments to live poultry farmers who surrender their Livestock Keeping Licences and cease rearing live poultry permanently; to live poultry wholesalers who surrender their poultry stall tenancies at the Cheung Sha Wan Temporary Wholesale Poultry Market and cease operation at the wholesale market permanently; to live poultry transporters who cease operation of delivery of live poultry permanently and surrender their monthly car park tenancies at the wholesale market if applicable;

/(ii) .....

- (ii) providing one-off grants to assist the affected local workers of the live poultry farm/wholesale/transport industry; and
- (iii) making ex-gratia payments to live poultry farmers as a relief to deal with their chickens past the average marketable age;

**For Food and Environmental Hygiene Department  
(Head 49 Subhead 700)**

- (b) approve the creation of a new commitment of \$602.5 million for –
  - (i) making ex-gratia payment to live poultry retailers who surrender the permission to sell live poultry on their Fresh Provision Shop licences or public market tenancies permanently, as appropriate;
  - (ii) providing a one-off grant to assist the affected local workers of the live poultry retail industry; and
  - (iii) providing compensation to live poultry retailers for live poultry slaughtered as well as dressed poultry and chilled/frozen poultry products seized; and
- (c) note that, except for the ex-gratia payment to farmers and compensation to retailers as per (a)(iii) and (b)(iii) above, only when a substantial majority, say around 85%, of the number of retailers accept the buyout package would the ex-gratia payments/one-off grants as detailed in (a)(i) and (ii) and (b)(i) and (ii) be offered and payable.

## PROBLEM

To protect public health and further minimise the risk of human infection by avian influenza, there is a pressing need for the Government to formulate a buyout package for the live poultry trade to further our policy objective of separating live poultry from humans.

## PROPOSAL

2. We propose to –

- (a) create a new non-recurrent commitment of \$520.5 million under Head 22 Agriculture, Fisheries and Conservation Department (AFCD) Subhead 700 General non-recurrent for (i) making ex-gratia payments (EGPs) to poultry **farmers** who surrender their Livestock Keeping Licences (LKLs) and cease rearing live poultry permanently; live poultry **wholesalers** who surrender their poultry stall tenancies at the Cheung Sha Wan Temporary Wholesale Poultry Market (the wholesale market) and cease operation at the wholesale market permanently and live poultry **transporters** who cease operation of delivery of live poultry permanently and surrender their monthly car park tenancies at the wholesale market, if applicable; (ii) providing one-off grants of \$35,000 per worker to assist the affected **local workers of the live poultry farm/wholesale/transport industry**; and (iii) making ex-gratia payments to live poultry farmers as a relief to deal with their chickens past the average marketable age by 2 July 2008;
- (b) create a new non-recurrent commitment of \$602.5 million under Head 49 Food and Environmental Hygiene Department (FEHD) Subhead 700 General non-recurrent for (i) making EGPs to live poultry **retailers** who surrender the permission to sell live poultry on their Fresh Provision Shop (FPS) licences or public market tenancies permanently, as appropriate; (ii) providing a one-off grant of \$35,000 per worker to assist the affected **local workers of the live poultry retail industry**; and (iii) providing compensation to retailers for live poultry slaughtered as well as dressed poultry and chilled/frozen poultry products seized; and
- (c) require that, except for the EGP to farmers and compensation to retailers as per (a)(iii) and (b)(iii) above, only when a substantial majority, say around 85%, of the number of retailers accept the buyout package would the ex-gratia payments/one-off grants as detailed in (a)(i) and (ii) and (b)(i) and (ii) be offered and payable.

/JUSTIFICATION .....

## JUSTIFICATION

3. The recent detection of H5N1 avian influenza virus in environmental swabs taken from four local retail markets on 3 and 7 June 2008 indicates that despite all the preventive and control measures that we have put in place, they are inadequate in totally containing the public health risks posed by avian influenza, especially at the retail level. The location of these four retail markets all over the territory (viz. in Fanling, Tuen Mun, Sham Shui Po and Ap Lei Chau) further suggests that the virus may have a propensity to spread. Whilst we are actively tracing the source of the virus, we may not in the event be able to pinpoint any one particular reason to account for the virus detected in the retail markets. There is therefore an imperative need to enhance our ability to arrest any possible spread of avian influenza virus in Hong Kong in future, thereby reducing the risks of human infection of avian influenza.

4. Past experience has shown that the principal mode of transmission of the avian influenza virus from poultry to humans is through contact with infected live poultry or their faeces. Hence, the most effective way to minimise the health risk posed by avian influenza is to reduce as much as possible the contact between humans and live poultry.

5. We need to introduce new measures at all levels of the supply chain, especially the retail level. With a view to improving our current surveillance system and enhancing our ability to arrest any possible future spread of avian influenza virus in Hong Kong, we have started prohibiting overnight stocking of live poultry at all retail outlets beginning from 2 July 2008. The move is supported by scientific research which showed that the introduction of rest day was an effective means to break the virus cycle and reduce the virus load in the environment. Moreover, when a chicken is infected by the avian influenza virus, there will be an incubation period of one to five days when the virus would multiply to a sufficient number to be detectable in the excreta. If we prohibit overnight stocking of live poultry at retail outlets, i.e. to introduce a daily rest night, any unsold chicken will be slaughtered and the cages can be thoroughly cleansed and disinfected to avoid accumulation of virus in the environment of the retail outlets.

6. Furthermore, prohibition of overnight stocking of live poultry at retail level will make it easier for the Administration to monitor whether there are smuggled chickens at the retail level. This new measure will also discourage the retailers to sell smuggled chickens as any unsold chicken at the end of the day has to be slaughtered and the value of a dressed chicken is much diminished.

7. We have considered other alternatives, such as increasing the market rest days from two per month to once every week, to reduce the health risks posed by avian influenza at the retail level. However, we consider that such measure is not an effective way to arrest the possible spread of avian influenza. In the avian influenza incident in June 2008, the second market rest day in May was 25 May 2008 whereas the environmental samples tested positive of H5N1 virus were collected on 3 June 2008, i.e. about one week from the market rest day. This indicated that merely increasing the number of market rest days to once per week might not be able to significantly reduce the amount of virus load in the environment. Besides, when a chicken is infected by avian influenza virus, it may only take a couple of days or less for the virus to multiply to a sufficient number to be detectable in its excreta. The close proximity between the chickens at the retail outlets and their excreta allow the rapid spread of avian influenza from one infected chicken to others. Similar incremental arrangement of increasing market rest days, for example twice a week, would not be sufficient to safeguard public health.

8. Apart from prohibiting the overnight stocking of live poultry, we will also enhance other preventive measures at the retail end. These include requiring the retailers to thoroughly cleanse and disinfect the retail premises including slaughter equipment and chicken cages every night, as well as strict enforcement of existing measures like requiring retailers to wear protective gears. Not observing these requirements could result in cancellation of the permission to sell live poultry.

9. In the wholesale market, we will closely monitor its daily throughput to ensure there is no over-stocking which poses a public health risk and environmental hygiene problem. We will liaise with the poultry importers and local farmers to appropriately adjust the number of poultry channelled to the wholesale market, if there is evidence to support that the live poultry trade has shrunk further because of the prohibition of overnight stocking at the retail level and the reduction of retailers in the trade.

## **THE PROPOSED BUYOUT PACKAGE**

10. The poultry retail trade considered that it would be very difficult to adapt to the new operating environment of allowing no stocking of live poultry overnight at retail outlets. The retailers have expressed their strong wish for the Government to buy out their business so that they can leave the live poultry trade for good. Given the retailers' resistance in operating under the new measures, the other traders in the live poultry trade would inevitably be affected. Provided that a substantial majority, say around 85%, of the number of retailers would leave the trade, we would offer a buyout package for the farmers, wholesalers, retailers, transporters and workers of the live poultry trade to take up and leave the trade so as to help us move closer to our policy objective of separating live poultry from humans.

11. We propose to allocate \$1,123 million to fund the proposed buyout package for live poultry farmers, wholesalers, retailers and transporters; and to provide one-off grants to assist affected local workers of the live poultry farm/wholesale/retail/transport industry. As at June 2008, there were 52 poultry farmers (including 50 chicken and two pigeon farmers), 71 wholesalers, 469 retailers and around 250 transporters remaining in the live poultry trade. The number of affected workers was estimated at around 2 550.

Encl. 1 12. We suggest using the formulae adopted in the previous Voluntary Surrender Schemes (VSS) launched for the live poultry trade in 2004 and 2005 as the basis for calculating the EGP and financial assistance under this buyout package. A summary of the package offered in the VSS is set out at Enclosure 1. Given that the traders would need to opt to cease business within a short period of time and be permanently out of the live poultry trade, we consider it reasonable and appropriate to offer them a higher amount of EGP than those under the VSS.

### **Discussion with the trade**

13. We have conducted several rounds of negotiation with various sectors of the trade in the past two weeks. In response to the views of the trade, we have suitably made some upward adjustments to our initial proposed package.

14. We have also consulted the Legislative Council (LegCo) Panel on Food Safety and Environmental Hygiene on 27 June 2008 on our proposal of banning overnight stocking of live poultry at the retail level and offering a buyout package to the entire live poultry trade, provided the proportion of retailers who accept our proposed package has reached around 90%. Members did not raise objection to our submission of the funding proposal to the Finance Committee (FC). Some Members requested the Administration to lower the triggering percentage of the number of retailers and allow some flexibility in deciding to offer the proposed buyout package to the entire trade. In response to Members' request, we have decided to suitably lower the triggering percentage to around 85%.

15. The buyout package we recommend to offer to different sectors of the live poultry trade is described in the ensuing paragraphs.

**/Ex-gratia .....**

## Ex-gratia payments

### *Poultry Farmers*

16. The EGP calculation will broadly follow the current formulae for calculating ex-gratia allowances for poultry farmers and farm buildings affected by land resumption and clearance for public work projects, as approved by the FC and adopted in the VSS. They will be calculated using the prevailing rates under these ex-gratia allowances at the time when an application is approved. The amount of EGP payable to each farmer depends on the sizes of various farm structures such as chicken sheds, storage, etc. and cage areas. Only structures recorded in the LKL issued by the AFCD and remaining valid on 2 July 2008 will be eligible for the EGP calculation. Moreover, we consider it reasonable to continue to adopt more lenient factors for calculating the EGP as in the VSS. In this regard, we would –

- (a) assume that all poultry farm structures are fully enclosed so that a higher EGP for fully (as compared with partially) enclosed farm structures would result in the farm structure component;
- (b) assume that all farm structures are new so that the highest modification factor (i.e. 0.75) currently adopted in public development clearances could be used; and
- (c) include in the EGP calculation a component accounting for the average installation cost of metallic chicken-rearing cages which are devices required by the Government to facilitate cage disinfection and prevent the harbouring of pathogens in chicken farms.

17. In addition, we propose to include an enhanced additional lump sum payment in the calculation of EGP to chicken and pigeon farms to account for the overall infrastructure and facilities in relation to biosecurity such as disinfectant pool, bird-proof nets, solid farm gate and solid partitions. These facilities are requirements specified in the licensing conditions and farmers are required to renew and upkeep these facilities in good operating order. The lump sum for each pigeon farm is proposed to increase from \$50,000 in the VSS to \$150,000. Considering the chicken farmers' large scale investment in the above items, we propose to increase the lump sum for each chicken farmer from a flat rate of \$0.15 million under the VSS to a range from \$1.5 million to \$2.8 million in four different bands of the licensing capacity of the farms as set out below –

<b>Licensed rearing capacity of chicken farms (no. of chickens)</b>	<b>No. of farms</b>	<b>Lump sum payment on biosecurity facilities (\$ million)</b>
Up to 30 000	30	1.5
Above 30 000 - 60 000	13	1.9
Above 60 000 - 90 000	4	2.4
Above 90 000	3	2.8

18. To better reflect the scale of operation in poultry farms, we further propose to remove the maximum ceiling of \$4.15 million imposed on the total EGP payable to each farmer in the VSS. Among the 52 poultry farms, 20 larger chicken farms will benefit from the removal of the cap. For pigeon farms, an enhancement of \$100,000 per licence is proposed to be added to the EGP amount derived from the formulae provided that the total amount of EGP payable per licence will not exceed \$350,000. The following table shows the total EGP for the chicken and pigeon farms –

	<b>No. of farms</b>	<b>Range of EGP payable to each farmer (including lump sum payment) (\$ million)</b>	<b>Estimated total EGP (\$ million)</b>
Chicken farms	50	1.74 – 17.40	224.00
Pigeon farms	2	0.32 – 0.91	1.23
<b>Total</b>	<b>52</b>		<b>225.23</b>
		<b>Total plus 2% contingency</b>	<b>\$229.73</b>
		<b>Say</b>	<b>\$230 million</b>

Details pertinent to the computation of the EGP for poultry farms in accordance with the formulae with enhanced factors set out in paragraph 16 above are at Encl. 2 Enclosure 2.

19. Separately, the local poultry farms could not sell their chickens when all retail outlets selling live poultry were declared as infected places for three weeks following 7 June 2008. Around 400 000 chickens on farms had passed the average

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marketable age of 84 days when the retail outlets re-opened on 2 July 2008. Whilst these chickens could be sold through the normal sale channels starting from 2 July, they will probably fetch a lower market price. As such, we propose to offer all chicken farmers \$30 per chicken for these 400 000 chickens to provide some relief, no matter whether they will accept our proposed buyout package eventually. The total amount required will be around \$12 million.

20. However, if a live poultry farmer chooses to accept our proposed buyout package but has genuine difficulty in disposing of his stock through normal sale channels by the time his licence is cancelled, we will consider arranging culling operation for all the remaining stock of poultry in that particular farm if necessary. In that case, assuming all farmers request culling operations for all the existing stock when their licences are cancelled, the following table shows the estimated total payment required, using 2 July 2008 as the cut-off date for the number of eggs and poultry remaining in farms –

	<b>Unit rate (\$)</b>	<b>Estimated number in existing stock</b>	<b>Estimated payment (\$)</b>
Hatching eggs	5	160 000	800,000
Chicken of 30 days old or below	20	152 910	3,058,200
Chicken of above 30 days old	42	1 320 481	55,460,202
Pigeon	18	200	3,600
		<b>Total</b>	<b>59,322,002</b>
			<b>Say \$60 million</b>

For birds already included under the relief described in paragraph 19, only the difference between the EGP so paid and the EGP payable based on the above proposed rate for culling chickens of above 30 days old, if any, will be paid should they be included in the culling operation. Therefore, the total amount of \$60 million in the table above has already covered the EGP for chickens which have passed marketable age (i.e. \$12 million).

21. Poultry farmers who apply for the EGP are required to cease their live poultry business and surrender their LKLs for cancellation within three months from the date of approval of their EGP applications. The LKLs will be revoked on disbursement of the initial 70% of the EGP (details see paragraph 34 below). Any keeping of live poultry subsequent to licence cancellation will result in prosecution for illegal keeping. Regarding the eligibility criteria of farmers for the EGP, please see Enclosure 3.

*Live Poultry Wholesalers*

22. Regarding live poultry wholesalers, we propose to offer an enhanced EGP calculated on the basis of three times of the previous VSS rate, with some further overall enhancement. The EGP for wholesalers will be calculated by the size of their stalls. Same as the VSS, all stalls in the wholesale market are divided into different bands according to their size and the EGP payable is based on the maximum size of that particular band. A minimum amount of EGP payable will be set for the small-sized stalls (i.e. those up to 50 m<sup>2</sup>) and a maximum ceiling of 250 m<sup>2</sup> will be set for the large-sized stalls (i.e. those stalls over 200 m<sup>2</sup>) as the business volume of live poultry wholesalers does not necessarily increase proportionately with stall size.

23. To further help wholesalers tide over the change in business, an additional lump sum will be offered, also based on the different bands of stalls set to reflect the size and type of stalls. The following table shows the lump sum and the total EGP for various bands of stalls in the wholesale market –

<b>Size of stalls as assessed by AFCD (m<sup>2</sup>)</b>	<b>Size for calculating EGP (m<sup>2</sup>)</b>	<b>Estimated no. of stalls</b>	<b>Lump sum payment (\$)</b>	<b>Proposed EGP per wholesale stall (including the lump sum payment) (\$)</b>
Up to 50	50	40	480,000	1,649,102
Up to 50 (stalls equipped with better facilities)	50	23	630,000	1,799,102
Above 50 – 100	100	-	-	-
Above 100 – 150	150	1	150,000	3,181,004
Above 150 – 200	200	-	-	-
Above 200	250	7	280,000	5,331,674
	<b>Total</b>	<b>71</b>		<b>147,846,148</b>
			<b>Total plus 1% contingency</b>	<b>149,324,609</b>
				<b>Say \$149 million</b>

24. The eligibility criteria for the EGP for wholesalers are set out at Enclosure 3. Wholesalers applying for EGP are required to cease their business at the wholesale market and surrender their tenancy within three months from the date of approval of their EGP applications. The tenancy will be terminated on disbursement of the initial 70% of EGP. The poultry stall concerned will be repossessed by the Government after the termination of the tenancy. Rental, if already paid, for the remaining period after the date of termination of tenancy would be refunded. To tie in with our policy to reduce the number of live poultry wholesalers, AFCD will stop leasing out any vacant stalls at the wholesale market to new and existing tenants. We would also waive the two-calendar-month advance notice requirement for the termination of tenancies for those wholesalers who accept the buyout package.

*Live Poultry Retailers*

25. For retailers who choose to surrender the permission on their public market tenancies or FPS licences to sell live poultry, we propose to offer an enhanced EGP calculated on the basis of three times of the previous VSS rate, with some further overall enhancement. To better reflect the scale of operation and higher income of larger stalls, the size of stalls will be divided into nine bands, instead of five in the previous VSS. As a result, larger stalls (i.e. those over 55 m<sup>2</sup>) will receive a larger amount. Same as the calculation for wholesalers, the proposed EGP is also based on the maximum size of that particular band. The EGP amount for small-sized outlets is further enhanced. On the other hand, a maximum ceiling has been set for the large-sized outlets, i.e. stalls over 90 m<sup>2</sup>. The following table shows the proposed EGP for retail stalls in various bands –

<b>Size of retail stalls as assessed by FEHD (m<sup>2</sup>)</b>	<b>Estimated no. of stalls</b>	<b>Proposed EGP per retail stall (\$)</b>
Up to 15	38	800,000
Above 15 – 25	251	956,000
Above 25 – 35	107	1,163,000
Above 35 – 45	26	1,436,000
Above 45 – 55	19	1,826,000
Above 55 – 65	8	2,144,000
Above 65 – 75	8	2,461,000
Above 75 – 90	8	2,779,000
Above 90	4	3,209,000
<b>Total</b>	<b>469</b>	<b>538,735,000</b>
	<b>Total plus 2% contingency</b>	<b>549,509,700</b>
	<b>Say</b>	<b>\$550 million</b>

26. In addition to the above commitment of \$550 million as EGP for retailers, we also require **\$2.01 million (say \$2 million)** as the compensation for about 5 200 live poultry slaughtered as well as the dressed poultry and chilled/frozen poultry products seized during the culling operation conducted on 7 and 11 June 2008 in all retail outlets. Taking into account the recent market price of poultry and poultry products at the retail level, the proposed compensation rates are set out in Enclosure 4.

Encl. 4

27. The eligibility criteria for the EGP for retailers are set out at Enclosure 3. The retailers will be required to surrender the permission to sell live poultry under their public market tenancies and FPS licences, as appropriate, before receiving the EGP. Those who wish to switch to chilled/frozen poultry business may approach the FEHD for amendment to their market tenancies/FPS licences as appropriate.

28. We would waive the one-month advance notice requirement for the termination of market tenancies for those who sell live poultry only in public markets if they submit an EGP application on or before 24 July 2008 and cease live poultry retail business on 1 August 2008. The tenancy termination will take effect on 23 August 2008. Only rental, if already paid, for the remaining period after 1 August 2008 would be refunded. Furthermore, refund arrangement does not apply to market stalls which cease to operate live poultry business, but carry on business in chilled/frozen commodities. In the case of FPS licences, we would refund the unused portion of licence/permission fee paid for the sale of live poultry to the licensees who submit an EGP application on or before 24 July 2008 provided that they have ceased sale of live poultry retail business and surrendered the FPS licence/permission for cancellation on or before 23 August 2008. The unused portion of licence/permission fee paid for the sale of live poultry for the remaining period on or after 1 August 2008 would be refunded as appropriate<sup>Note</sup>.

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<sup>Note</sup> The licence fee for FPS licence is charged on commodity basis (such as beef, pork, fish, or poultry, etc.). Each commodity includes its fresh, chilled and frozen state, and in the case of fish and poultry, their live state as well. Under the current fee charging mechanism, the aggregate fee for FPS licence shall not exceed the fee for four commodities even if the premises have permission to sell more than four commodities. The refund of unused portion of licence/permission fee is therefore applicable only for those licences which have permission to sell not more than four commodities of which one permission relates to poultry. Furthermore, refund arrangement does not apply to FPS which ceases to operate live poultry business, but carries on business in chilled/frozen poultry.

*Live Poultry Transporters*

29. To assist live poultry transporters in upgrading/converting their vehicles so as to transform their business from transporting live poultry to transporting other commodities or for other business operations, we propose to provide them with an enhanced EGP. All transporters, no matter whether they have car park tenancies at the wholesale market or not, will be eligible for the EGP. The proposed EGP for each vehicle with monthly car parking tenancy at the wholesale market is \$0.2 million whereas for those without is \$0.15 million. The difference of \$50,000 takes into account representations from the trade for greater recognition for car park tenants at the wholesale market. In the previous VSS, an EGP at up to \$50,000 per vehicle was only provided to those transporters that had rented parking spaces at the wholesale market while those who had not were only offered unsecured loans at up to \$50,000 per vehicle.

30. There are about 250 eligible transporters (112 of whom with car park tenancy) and the financial commitment would be **\$43.1 million (say \$43 million)**. The eligibility criteria for the EGP for transporters are at Enclosure 3. EGP applicants are required to cease their live poultry transport business and surrender their car park tenancy, if applicable, within three months from the date of approval of such application. The concerned vehicle will not be allowed to enter the wholesale market and the parking space concerned will be repossessed by the Government after the termination of the tenancy, where applicable. Rental, if already paid, for the remaining period after the date of termination of tenancy would be refunded.

**One-off grants for local workers of the live poultry farm, wholesale, retail and transport industry***Live Poultry Workers*

31. To assist those local workers of the live poultry farm, wholesale, retail and transport industry (including vehicle drivers, if they are not the owner of the vehicle, and porters) who would leave the trade as a result of cessation of business of their employers, we propose to provide a one-off grant of \$35,000 to each worker. This amount is equivalent to about three months of the average salary of a semi-skilled worker according to the pay statistics in 2007. The total amount of funding required for the one-off grants for around 2 550 workers is estimated to be **\$89.25 million (say \$89 million)**. Detailed criteria for the one-off grants are set out at Enclosure 3.

/Outstanding .....

**Outstanding stall rental, penalty or fees**

32. If the live poultry farmer, wholesaler, retailer or transporter has owed the Government any outstanding stall rental, penalty, loans and interest, fees or charges, the Government will deduct the outstanding loan, rental, unpaid penalty and fees and interest thereon from the EGP payable to them.

**Mechanism to ensure employers to discharge responsibilities**

33. As a matter of principle, Government considers that it is the responsibility of an employer to meet his obligations towards his employees. Furthermore, the employer has a legal responsibility to pay his employees still in his employment or to pay any laid off employees the wages and other benefits provided for under the Employment Ordinance (Cap. 57) 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 full responsibilities to their employees having regard to EGP made available under the proposed package.

34. To encourage employers to fulfil their obligations to their employees but without interfering in any employer-employee relationship, we propose to retain 30% of the EGP until the employers have discharged their responsibilities towards the employees. The retained portion of EGP would be paid to the farmers, wholesalers, retailers and transporters concerned when they have met one of the following conditions –

- (a) no labour claim has been lodged with the Labour Department/Labour Tribunal by the applicant's employees within 30 days after signing the EGP agreement; or
- (b) in case there is a labour claim,
  - (i) the worker does not pursue the claim further within 30 days after lodging the claim; or
  - (ii) the claim has been resolved.

**FINANCIAL IMPLICATIONS**

35. We estimate the total amount required for live poultry farmers, wholesalers, retailers, transporters and the affected workers under the proposed package at about \$1,123 million with breakdown as follows –

/EGP .....

	<b>\$'million</b>
EGP to live poultry farmers, wholesalers, retailers and transporters	1,032
One-off grants to assist affected local workers in the live poultry farm/wholesale/retail/transport industry	89
Compensation to retailers for live poultry slaughtered as well as dressed poultry and chilled/frozen poultry products seized during the culling operation on 7 and 11 June 2008	2
<b>Total</b>	<b>1,123</b>

36. The proposed creation of new commitments of \$1,123 million are one-off commitments. The AFCD and FEHD will administer the proposed EGP and one-off grants using their existing staff resources. There are no recurrent financial implications.

#### **WAY FORWARD**

37. If a substantial majority of the retailers, say around 85% of the number of retail traders accept our buyout package, we propose to offer the package to the retail sector as well as other sectors of the trade including the farmers, wholesalers and transporters who choose to leave the trade within a specified timeframe. The application period for the retailers is proposed to be one month (i.e. by 24 July 2008) because a number of retailers have indicated that they prefer to make an early decision on whether to quit the trade and accept the buyout package. Also, as the decision of the retailers will have significant implications on other sectors of the trade, an earlier timeframe is considered appropriate. For the farmers, wholesalers and transporters, the time limit is proposed to be three months (i.e. by 24 September 2008). This longer time limit will afford them a chance to gauge their business viability following the development at the retail level before they exercise their option. It would also allow time for the farmers to dispose of their remaining poultry stock through the normal sale channels.

38. The decision of farmers, wholesalers, retailers and transporters to join the buyout scheme is binding on them and is irreversible once they have entered into a contractual agreement with the Administration. However, if any licensee/tenant concerned fails to cease live poultry business so required under the agreement on the termination date, the Government will no longer be bound to pursue the agreement further and to provide the EGP.

39. For those who choose to stay in the live poultry trade, we shall make clear to them that they will bear the risks of any further avian influenza outbreaks in Hong Kong. No EGP or financial assistance, other than the statutory compensation (i.e. a maximum of \$30 per bird slaughtered), will be provided to them as well as those transporters and workers who subsequently enter into the live poultry trade, if any, in the event of disruption of business arising from an avian influenza outbreak in future.

40. We shall in the long term explore whether there are other legislative or administrative means to achieve our policy objective of separation of live poultry and humans. We shall also revisit our plan to develop a central poultry slaughtering and processing plant in Hong Kong, taking into account the decrease in consumption of live chickens in recent years and the economic viability of the plant. Following the prohibition of overnight stocking of live poultry at the retail level and that many traders may choose to leave the live poultry trade, as well as increased public preference for chilled and frozen chicken, it may no longer be economically viable to build a poultry slaughtering and processing plant in Hong Kong.

#### **URGENCY**

41. We have placed this item on the agenda for 4 July 2008, which is the first available FC meeting after we have resolved the key issues under the proposed buyout scheme and the last meeting before the close of the current legislative session. This is to ensure that, subject to the proposed buyout package being approved by Members, we can proceed with the scheme and enable those traders who choose to join the scheme to apply for the financial assistance as soon as possible.

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**Enclosure 1 to FCR(2008-09)39**

**2004/05 Voluntary Licences / Tenancies Surrender Scheme  
for the Live Poultry Trade**

	<b>Item</b>	<b>Proposal</b>
<b>Farmers</b>		
<i><b>Ex-gratia payment (EGP)</b></i>	Amount	Calculated according to the size of farm structures and chicken cages plus an additional lump sum for relevant investment in biosecurity facilities
	Lump sum for investment in biosecurity facilities	\$0.15 million per chicken farm \$50,000 per pigeon farm
	Minimum for each chicken farm	\$0.45 million
	Maximum for each chicken farm	\$4.15 million
	Enhancement for pigeon farms	Additional \$0.1 million per licence to the EGP amount derived from the formula (provided that the total EGP payable per licence does not exceed \$0.35 million)
<b>Wholesalers</b>		
<i><b>EGP</b></i>	Amount	39 months of the average rental plus 40-60% enhancement for each stall in wholesale market
	Amount for various categories of stalls :	
	(i) Up to 50m <sup>2</sup>	\$383,363
	(ii) Above 50m <sup>2</sup> to 100m <sup>2</sup>	\$662,603
	(iii) Above 100m <sup>2</sup> to 150m <sup>2</sup>	\$993,905
	(iv) Above 150m <sup>2</sup> to 200m <sup>2</sup>	\$1,325,206
	(v) Above 200m <sup>2</sup>	\$1,656,508

/Retailers .....

	<b>Item</b>	<b>Proposal</b>
<b>Retailers</b>		
<b><i>EGP</i></b>	Amount	39 months of the average rental for each market stall plus 40-60% enhancement for each retail stall
	Amount for various categories of market stalls : (i) Up to 15m <sup>2</sup> \$200,000 (ii) Above 15m <sup>2</sup> to 25m <sup>2</sup> \$252,000 (iii) Above 25m <sup>2</sup> to 35m <sup>2</sup> \$321,000 (iv) Above 35m <sup>2</sup> to 45m <sup>2</sup> \$412,000 (v) Above 45m <sup>2</sup> \$503,000	
<b>Transporters</b>		
<b><i>EGP</i></b>	Amount (only for those with monthly car park tenancies at the wholesale market)	Up to \$50,000
<b><i>Loans</i></b>	Amount (for those without a monthly car park tenancy at the wholesale market)	Up to \$50,000
<b>Local workers concerned</b>		
2004		
<b><i>Special allowance</i></b>	Amount per worker who attended retraining courses	Up to \$8,000
<b><i>One-off grant</i></b>	Amount per worker who remained unemployed after attending retraining courses within a six-month period from the date of cessation of business of its former employer	\$10,000
2005		
<b><i>One-off grant</i></b>	Amount per worker	\$18,000

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**Proposed Buyout Package to the Live Poultry Trade  
Ex-gratia Payment (EGP) to Poultry Farmers**

**The EGP Formula**

- The EGP formula applicable to poultry farms consists of two components, one accounting for farm operation and the other for farm buildings (poultry sheds and agricultural stores), the calculations of which are based on the ex-gratia allowances for poultry farmers and farm buildings affected by land resumption and clearance for public works projects.

$$EGP_{(Total)} = EGP_{(Operation)} + [EGP_{(Poultry\ shed)} + EGP_{(Store)}]$$

- For the farm operation component, EGP is calculated by multiplying a unit rate with the total area of all farm buildings (i.e. poultry sheds plus agricultural stores). The unit rate is reviewed by the Compensation Review Committee and approved by Financial Services and the Treasury Bureau (FSTB) annually in accordance with the formula approved by the Finance Committee (FC). The current unit rates approved in October 2006 for different kinds of poultry farming operation are as follows –

- Chicken farming :   \$654.30/m<sup>2</sup>           (which represents a 9.5% of increase as compared to the rate adopted in the 2005 Voluntary Surrender Scheme(VSS))
- Pigeon farming       \$490.93/m<sup>2</sup>           (which represents a 1.6% of increase as compared to the rate adopted in the 2005 VSS)

- For the farm building component, EGP for each kind of farm buildings (i.e. poultry shed or agricultural store) is calculated according to the following formula –

$$EGP_{(Poultry\ shed /Store)} = (L \times W \times P - S \times R) \times F, \text{ where}$$

- L = length of building
- W = width of building
- P = unit replacement cost
- S = length of open sides of not-fully-enclosed building
- R = unit reduction cost factor for open-sided building
- F = modification factor (condition of building, etc.)

/The .....

The P and R unit costs for poultry sheds are different from those for agricultural stores. These unit costs are reviewed by the Compensation Review Committee and approved by FSTB annually in accordance with the formula approved by the FC. The current unit rates approved in July 2008 are as follows –

- P (poultry shed) : \$1,225.98/m<sup>2</sup> (which represents a 27.4% of increase as compared to the rate adopted in the 2005 VSS)
- P (stores) : \$736.07/m<sup>2</sup> (which represents a 21.8% of increase as compared to the rate adopted in the 2005 VSS)
- R (poultry shed) : \$889.47/m
- R (stores) : \$343.03/m

There are four categories of the F factor –

- (1) As new – 75%;
- (2) Not new but in very good condition/repair – 50%;
- (3) In reasonable or fair condition but in need of maintenance – 25%; and
- (4) In poor condition and in need of repair/maintenance – 15%.

### **Adoption of More Lenient Factors**

- The following enhancements will apply to the EGP calculations for this buyout package –
  - (i) assume that all farm buildings are fully enclosed to the effect that there will be no reduction in the EGP component for farm buildings due to open-sided structures (i.e.  $S \times R = 0$ );
  - (ii) assume that all farm structures are as new so that the highest modification factor (i.e.  $F = 0.75$ ) currently adopted in public development clearance could be used for calculating EGP for live poultry farms; and
  - (iii) in case of **chicken** farms, add to the current formula for public development clearance an extra EGP component accounting for the average installation cost of metallic chicken-rearing cages (a fixture within chicken sheds). Such installation, which is quite capital intensive, was among various on-farm bio-security measures required by the Government in recent years for the purpose of facilitating cage disinfection and preventing the harbouring of pathogens in chicken farms. This extra EGP component applicable only to chicken farms is calculated according to the following formula –

/EGP<sub>(Cage)</sub> .....

$EGP_{(Cage)} = U \times L \times W \times D$ , where

U = unit installation cost of metallic chicken-rearing cage

L = length of cage

W = width of cage

D = modification factor taking depreciation into account

The rate adopted for U is \$400/m<sup>2</sup> of **cage area**. The modification factor D will be taken as 0.75 in order to tally with the adopted level of F.

- (iv) provide an additional lump sum payment to chicken and pigeon farms to account for their investment in biosecurity facilities. For chicken farms, these biosecurity measures are mandatory requirements set out in the licensing conditions. We propose to set the lump sum payment per chicken farm at a range of \$1.5 million to \$2.8 million in accordance with the farms' licensing capacity. For pigeon farms, since these biosecurity facilities are of relatively smaller scale, we propose to set the lump sum payment at a flat rate of \$150,000 per pigeon farm.

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**Proposed Buyout Package - Eligibility Criteria for Applicants**

The applicant must belong to one of the following categories –

- A holder of a valid poultry farm licence issued by the Agriculture, Fisheries and Conservation Department (AFCD) and in active commercial operation during the 24-month period immediately before 2 July 2008.
- A tenant of a live poultry stall in the Cheung Sha Wan Temporary Wholesale Poultry Market as at 2 July 2008.
- A tenant of a live poultry stall in public markets as at 2 July 2008.
- A holder of a valid Fresh Provision Shop licence with endorsement to sell live poultry as at 2 July 2008.
- A tenant of a car parking space in the Cheung Sha Wan Temporary Wholesale Poultry Market as at 2 July 2008.
- An owner of a vehicle in active commercial operation in live poultry delivery during the 3-month period immediately before 7 June 2008.
- A full-time or part-time<sup>Note</sup> worker who must be working for –
  - (i) Holder(s) of a valid poultry farm licence issued by the AFCD who has(have) actively engaged in poultry farming during the 24-month period immediately before the surrender of Livestock Keeping Licences; or
  - (ii) Tenant(s) of live poultry stall(s) or car parking space(s) in the Cheung Sha Wan Temporary Wholesale Poultry Market, who is(are) eligible for receiving the EGP and has applied for this; or
  - (iii) Tenant(s) of live poultry stall(s) in the public markets or holder(s) of a valid Fresh Provision Shop licence with endorsement to sell live poultry, who is(are) eligible for receiving the EGP and has applied for this; or

/(iv).....

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<sup>Note</sup> Part-time workers refer to those workers who have been working in the live poultry farming, wholesale, retail and transportation business for at least 72 hours over a period of four weeks.

- (iv) Owner(s) of vehicles other than Tenant(s) of car parking space(s) in the Cheung Sha Wan Temporary Wholesale Poultry Market for transporting live poultry based on the records kept by AFCD who is(are) eligible for the EGP and has applied for this,

for at least 90 days during the one-year period immediately before 2 July 2008 and have remained working in the live poultry farm or wholesale/retail/transport trade until the live poultry farmers, wholesalers, retailers or transporters have submitted an application for EGP to the AFCD or Food and Environmental Hygiene Department.

- Live poultry farm licensees, wholesalers, retailers or transporters who opt out of business are not eligible for the one-off grants as they have already received EGP when they surrender their licences/tenancies.

#### **Declaration on employment status**

- The worker who submits an application must make a declaration on his employment status to support his claim in present/former employment in the live poultry farm, wholesale trade, retail trade or transport trade and should be as far as practicable to provide relevant documentary evidence (e.g. Mandatory Provident Fund records, employment contracts, salary payment records, etc.). His employer(s) will also be asked to make a declaration confirming the applicant's employment record. As regards those workers who are self-employed, they will be required to show documentary evidence from the live poultry farms, wholesale stalls, retail stalls or transporters that have purchased their services. The employment information provided by the applicant and the employer(s) may be sent to the relevant Government departments or public organizations for cross-checking purposes. The applicant and the employer(s) concerned will be held responsible for any legal consequences for false declaration and may be liable to prosecution by the Government. In case the employer has difficulties in making a declaration, the relevant registered trade unions can assist to certify the workers' status.

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**Schedule of Compensation Rates for  
Poultry Culled/Surrendered on 7 and 11 June 2008**

Items	Unit price (per poultry unless otherwise specified)
Live chicken (普通黃雞)	\$60
Live silky fowl (竹絲雞)	\$42
Live chukar (石雞)	\$28
Live pheasant (雉雞/山雞/野雞)	\$54
Live pigeon (乳鴿)	\$25
Dressed chicken (光雞)	\$60
Dressed pigeon (鮮宰乳鴿)	\$25
Dressed silky fowl (鮮宰竹絲雞)	\$42
Chilled chicken (冰鮮雞)	\$36
Chilled silky fowl (冰鮮竹絲雞)	\$42
Chilled francoline (冰鮮鷓鴣)	\$28
Chilled duck (冰鮮鴨)	\$50
Chilled/Frozen pigeon (冰鮮/凍乳鴿)	\$20
Chilled/Frozen chukar (冰鮮/凍石雞)	\$28
Chilled/Frozen goose (冰鮮/凍鵝)	\$160
Frozen silky fowl (凍竹絲雞)	\$42
Frozen chicken (凍雞)	\$30
Frozen duck (凍鴨)	\$35
Poultry meat, wings, leg, offal etc (禽肉、禽翼、禽腳、雞什等)	\$35 (per kg)

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