

**For discussion
on 8 January 2008**

LegCo Panel on Food Safety and Environmental Hygiene

**Introduction of a composite licence for the manufacture / sale
of various types of ready-to-eat food items**

PURPOSE

This paper updates members on the Administration's latest proposal to introduce a composite licence scheme for the manufacture / sale of ready-to-eat food items, which has taken into account comments from Members of this Panel and the food trade.

BACKGROUND

2. At the Panel Meeting held on 9 January 2007, the Administration presented the proposed composite licence scheme for the manufacture / sale of different ready-to-eat food items, e.g. siu mei and lo mei, sushi and sashimi, etc. for consumption off the premises, with a view to streamlining the licensing process to facilitate the trade. While Members were supportive of the proposal, they asked the Administration to give further consideration to the proposed scope and categorisation of the food items under the scheme, and to review the applicability of certain licensing requirements and conditions.

3. The Food and Environmental Hygiene Department (FEHD) subsequently revised the proposal and further consulted the food trade. The comments and suggestions received from the trade during the consultations held in July and October 2007 have been incorporated into the proposal outlined below.

The LATEST PROPOSAL

Categorisation and Scope

4. In the proposal put forward in January 2007, food items covered by the scheme were categorised into Groups A, B and C¹. The idea then was to cater for the need of operators of different scales, such that smaller operators selling fewer food items could apply for a Group B or C permit with simpler licensing requirements and conditions.

5. Having considered the request of this Panel and the trade for greater flexibility, we now propose to introduce a more comprehensive composite licence system which allows an applicant the free choice of any combination of 16 food items set out at the Annex. The scope of the licence has been expanded to cover the manufacture / sale of the following additional food items –

- (a) soft ice-cream;
- (b) frozen carbonated beverages;
- (c) coffee and tea; and
- (d) salad, sandwiches and waffles.

All relevant licensing requirements and conditions pertaining to the applicant's chosen combination of food items would be issued in one go. A composite licence will be issued upon compliance with all necessary licensing requirements and conditions.

6. The trade welcomes the addition of the above four food items which would enhance the attractiveness of the scheme. It is also agreeable to the proposed licensing requirements and conditions for all food items. With this addition, the proposed composite licence will cover all the ready-to-eat food items under Schedule 2 "Restricted Foods" of the Food Business Regulation (Cap. 132X) as requested by the trade.

Licensing Procedures

7. When we briefed the Panel in January 2007, FEHD undertook to consider accepting certificates issued by authorised persons (APs) / registered professionals to confirm compliance with hygiene requirements for the issuance of a composite licence. Since the food items covered by the proposed composite licence do not involve any complicated food handling procedures, FEHD is prepared to adopt the certification approach in order to further facilitate the food

¹ The proposed Group A licence covered the manufacture of three food items and the sale of 12 food items, whereas Group B covered the sale of 10 items and Group C two items.

trade. In practical terms, in respect of a full licence application that does not require referral to other departments, a composite licence will be issued upon receipt of certification of compliance issued by an AP / registered professional and FEHD will conduct audit checks afterwards. A robust mechanism of sanction will be put in place to safeguard against any abuse. Deliberate circumvention or fraudulent certification may lead to immediate cancellation of the composite licence in question and prosecution as appropriate.

Licensing Requirements and Conditions

8. FEHD has also reviewed the licensing requirements and conditions for food items covered by the proposed composite licence to further simplify them without compromising the integrity of the licensing regime. We propose –

- (a) to remove the requirement for the walls and ceiling of the food room of licensed premises to be light-coloured to allow operators greater flexibility in designing their premises. Subject to necessary amendments to s.33(1)(f) of Cap. 132X and the relevant licensing requirements, the relaxed requirement will apply to all licensed food premises including those covered by a composite licence; and
- (b) to allow the shared use of certain work area and facilities, such as wash-hand basins and wash-up sinks, among different food items covered by a composite licence so that the operator can enjoy greater flexibility and economy of scale.

Regulatory Control

9. The composite licence will be a new type of food business licence issued under Cap. 132X. The premises covered by a composite licence will therefore be subject to the same regulatory controls applicable to other food businesses, including the Demerit Points System (DPS) and warning letter system, subject to necessary adaptations.

10. The DPS is an administrative regulatory regime operated by FEHD to deter licensed food business operators from breaching food safety and environmental hygiene requirements under the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation. Demerit points will be registered against a licence upon conviction of certain offences, and accumulation of such points within a specified period of time may lead to licence suspension or even cancellation. FEHD may also issue warning letters to licensees in the event of failure to comply with licensing requirements and conditions. The accumulation of a given number of warning letters within a specified period of time may also result in licence cancellation. In the case of

food premises covered by a composite licence, demerit points may be registered and warning letters issued in respect of contraventions detected in relation to individual food items covered by that composite licence. Should they all count toward the composite licence, the resultant sanction may become a disincentive for the trade to apply for a composite licence.

11. To address this concern, FEHD intends to apply an adapted version of the DPS and warning letter system such that each food item under a composite licence would be treated as if it were a separate licence on its own, provided that the manufacture / sale of that food item does not share any common work area, facility or equipment (e.g. wash-hand basin or wash-up sink) with other food items under that composite licence. Accumulation of sufficient demerit points or warning letters may lead to suspension or cancellation of the composite licence in relation to the relevant food item, but will not affect those other food items covered by the composite licence.

12. However, if a licensee wishes to operate the licensed premises in such a way that certain food items share common work areas, facilities or equipment, those food items would be treated together for the purpose of registering demerit points or warning letters. For example, if a sushi counter and an oyster counter under the same composite licence share the same wash-hand basin or a common area within the licensed premises, any demerit point or warning letter issued to the operation of the sushi counter will also be registered against the oyster counter, and vice versa. If sufficient demerit points or warning letters have been accumulated, both the sushi and oyster counters will be suspended from operation or cancelled from the composite licence as appropriate, but the other food items under the same composite licence will not be affected. Operators are free to decide whether food items under the same composite licence should share common areas, facilities or equipment and, if so, the extent of so doing.

13. The food trade was briefed on this proposed regulatory regime in detail in October 2007 and raised no objection to the proposal.

Licence Fee

14. Since the proposed composite licence will enable the manufacture / sale of food items for consumption off the licensed premises, it is similar in nature to a food factory which is a type of licensable food business at present. We therefore propose to apply the same fee scale applicable to food factories such that the licence fee will vary according to the size of the premises. We are working on the exact fee charging mechanism, and will inform the trade of the fee levels when ready.

Parallel Systems

15. The objective of introducing a composite licence is to provide operators with greater choice and flexibility. It will be an addition to the existing types of licences and will not replace any of them. Upon implementation, an operator may apply for a composite licence to cover any combination of the 16 food items, or several composite licences for different bundles of them, or separate licences / permits for each of them as at present, depending on his own assessment of operational needs, risks and fees. We believe this will best facilitate the trade without compromising on environmental hygiene requirements and food safety.

Legislative Amendments

16. Introduction of the proposed composite licence scheme will require amendments to the Food Business Regulation (Cap. 132X), the Frozen Confections Regulation (Cap. 132AC) and the Public Health and Municipal Services (Fees) Regulation (Cap. 132CJ).

NEXT STEPS

17. Subject to any comments Members may have on the latest proposal described above, we will proceed with the preparation of the necessary amendment regulations for tabling at the Legislative Council in 2008.

ADVICE SOUGHT

18. Members are invited to comment on the proposal as set out in paragraphs 4 to 16 above.

**Food and Health Bureau
Food and Environmental Hygiene Department
January 2008**

**Updated List of Food Items under
the Proposed Composite Licence**

- (1) Manufacture and sale of soft ice cream
- (2) Manufacture and sale of frozen carbonated beverages
- (3) Sale of coffee and tea
- (4) Manufacture and sale of salad, sandwiches and waffles
- (5) Sale of pre-cooked food requiring re-heating facilities
- (6) Preparation and sale of sushi and sashimi
- (7) Preparation and sale of oysters to be eaten in its raw state
- (8) Sale of siu mei and lo mei
- (9) Sale of cut fruits
- (10) Sale of leung fan
- (11) Sale of non-bottled drinks
- (12) Sale of frozen confections (ice cream sold by scoop)
- (13) Sale of Chinese herb tea
- (14) Sale of food by vending machine
- (15) Sale of milk / milk beverages
- (16) Sale of frozen confections (frozen confections in manufacturers' cups and wrappers)