

**For discussion
on 13 November 2007**

LegCo Panel on Food Safety and Environmental Hygiene

**Proposed Legislative Amendments Related to the
Development of the Poultry Slaughtering and Processing Plant**

PURPOSE

This paper aims to seek Member's views on the proposed legislative amendments related to the development of the poultry slaughtering and processing plant in Hong Kong.

BACKGROUND

2. To minimize the risk of human infection of avian influenza, it is necessary to achieve the long-term objective of separating live poultry from humans through the development of a poultry slaughtering and processing plant (PSPP). Having completed a territory-wide consultation in 2004 and identified a suitable site subsequently, the Government invited Expressions of Interest (EoI) from the private sector in late 2006 to early 2007 to obtain up-to-date information and feedback on the availability of prospective operators, and operational and commercial arrangements for the PSPP. The outcome of the EoI exercise was reported to the Panel on Food Safety and Environmental Hygiene (the Panel) on 13 March 2007.

LATEST PROGRESS OF THE PROJECT

3. Since our last report to the Panel in March 2007, we continued to press ahead with the development of a PSPP in Hong Kong. Besides preparing for a statutorily backed regulatory framework for PSPPs and related matters which are elaborated in the ensuing paragraphs

of this paper, we have commissioned a consultant to draw up a full suite of tendering documentation by making reference to information obtained through the EoI exercise and other relevant information. The Environmental Impact Assessment (EIA) study on the project is at an advance stage and the EIA Report is expected to be ready for public inspection in accordance with the EIA Ordinance in early 2008. Following the introduction of the legislation and the completion of the EIA, we will invite open tenders in 2008 from the private sector to develop the PSPP under a “Build, Own, Operate and Transfer” (BOOT) arrangement. We intend to have the PSPP coming into operation in 2011 at the earliest.

4. The Food and Environmental Hygiene Department (FEHD) has recently conducted a study which revealed that slaughtered chickens without going through a chilling process (“freshly slaughtered chicken”) would be suitable for consumption for up to 24 hours if stored at or below 7°C. In this connection, we will allow the PSPP to produce “freshly slaughtered chicken”, in addition to chilled chicken, for the market. It is for the future PSPP operator to assess the technical feasibility and the market situation to decide whether or not to provide “freshly slaughtered chicken”. We believe that allowing this option will help enhance the viability of the PSPP, accommodate people’s culinary preference, and reduce the impact of central slaughtering to live poultry wholesalers and retailers.

LEGISLATIVE PROPOSALS

5. To achieve the long-term objective of separating live poultry from humans, it is necessary to put in place a regulatory framework for the operation of the PSPP, to require all local and imported live poultry intended for food to be delivered to the PSPP direct without passing through the existing wholesale poultry markets, and to ban the sale of live poultry in retail outlets through the legislative amendments as detailed below.

New regulatory framework for PSPP

6. We propose to amend the Public Health and Municipal Services Ordinance (Cap 132) to empower the Secretary for Food and Health to make regulations for the control of slaughtering activities of live poultry and the operation of the PSPP. A new Poultry Slaughtering and Processing Plant Regulation (the PSPP Regulation) would then be made under the amended Cap 132 for the purposes. The key features of the Regulation are as follows –

(a) Restriction on the Slaughter of Poultry¹

- To stipulate that slaughter of live poultry and dressing of poultry carcasses for human consumption must be carried out in a licensed PSPP and in accordance with the licence;

(b) Licensing

- To make provisions for details on the application, renewal and revocation of licence for operating the PSPP;

(c) Operational Requirements

- (i) To stipulate that the licensee shall not refuse admission of live poultry for slaughter without lawful excuse and shall only admit and slaughter live poultry from proper sources;
- (ii) To require the licensee to carry out appropriate ante-mortem and post-mortem examinations to ensure that live poultry or poultry carcasses are fit for human consumption, and to separate and properly dispose of poultry carcasses deemed unfit for human consumption. Slaughtering of live poultry should be conducted in a designated slaughter hall in accordance with humane and approved methods. Furthermore, the licensee shall maintain proper records of all poultry intakes, examinations, product output and distribution, and engage registered veterinary surgeons to supervise the PSPP's operation;

¹ "Poultry" means any bird that is commonly used for human consumption or any other bird which is sold or offered for sale for human consumption.

- (iii) To stipulate the requirements for the labelling of poultry carcasses that are fit for human consumption before leaving the PSPP;
 - (iv) To require the licensee to comply with the licensing conditions;
 - (v) To control the transportation of live poultry and poultry carcasses into and out of the PSPP to prevent cross-contamination and to control entry of persons and vehicles into the PSPP for disease control;
- (d) Authorized Officers
- To empower authorized officers to examine live poultry and poultry carcasses, conduct inspections and give directions to the licensee on matters relating to the operation of the PSPP; and
- (e) Offences and Penalties
- To stipulate offences and penalties for contravention of the PSPP Regulation.

Requiring all live poultry to be transported to PSPP

7. At present, section 9A of the Public Health (Animals and Birds) Regulations (Cap 139A) requires all live poultry imported for food to be taken forthwith by the most direct route to the Cheung Sha Wan Temporary Wholesale Poultry Market (CSWTWPM) (for all poultry except water birds and quails) or the Western Wholesale Food Market (WWFM) (for water birds). Live poultry from local farms are subject to the same requirement which is stipulated as a condition of livestock keeping licences issued in accordance with section 4(5) of the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation (Cap 139L).

8. Upon commissioning of the first PSPP in Hong Kong, it is necessary to require all live poultry to be transported directly from import points or licensed local farms to the PSPP for slaughtering without going through the CSWTWPM or the WWFM. We therefore propose to amend section 9A of Cap 139A and the relevant condition in livestock keeping licences to mandate that all live poultry imported or from local

farms are required to be taken to a licensed PSPP direct. Moreover, to cater for special circumstances under which imported live poultry are required to be taken to places other than the PSPP, we propose to amend section 9A of Cap 139A so as to allow imported live poultry to be taken to a place other than a licensed PSPP as designated by a senior veterinary officer.

Banning retail sale of live poultry

9. We propose to amend the relevant sections of the Food Business Regulation (Cap 132X) with a view to banning the retail sale of live poultry in Hong Kong, and to ban the sale of carcasses or offal of poultry that have not been slaughtered in the PSPP unless they are legally imported. The relevant sections of the Private Markets Regulation (Cap 132BG) and Public Markets Regulation (Cap 132BO) are also proposed to be amended so as to reflect that live poultry trading and related activities will no longer be allowed in wet markets.

10. Legislative provisions proposed to be amended as described above are listed at Annex. The proposed new PSPP Regulation and related legislative amendments will be brought into effect upon the commissioning of the PSPP. Amendments to the Cap 132 will take immediate effect after the amendment Bill is enacted so as to empower the Secretary for Food and Health to make the relevant regulation.

ADMINISTRATIVE CONTROL OF PSPP

11. Apart from the proposed PSPP Regulation and the licensing conditions which would impose regulatory control upon the operation and management of the PSPP such as its slaughtering capacity, the PSPP licensee will be required to enter into an agreement with the Government through which we may require the licensee to comply with the terms and conditions enshrined in the agreement. In order to ensure that the licensee would provide a level playing field for all parties, we plan to include in the agreement the following terms to suitably require the licensee –

- (a) to provide poultry slaughtering and dressing service as its main business to all parties in need of such service on a fair and equal basis;
- (b) to seek prior approval from the Government for engaging in other businesses such as importing, distributing and processing of poultry that would involve the PSPP facilities;
- (c) not to refuse admission of live poultry or provision of slaughtering service to any parties without lawful excuse; and
- (d) to adopt a standard slaughtering fee to all parties and seek prior approval from the Government for raising the fee.

12. Having said the above, we need to ensure the financial viability of the PSPP taking into account that the licensee has to shoulder all the capital costs for the construction of the buildings and installation of all equipments for the PSPP and transfer the PSPP to the Government at no cost upon the expiry of the contract period up to 15 years. As such, it may be necessary to allow the PSPP licensee to have sufficient flexibility and room for engaging in other ancillary businesses so long as suitable measures are put in place to ensure that competition is open and fair for all parties. We will give due consideration to these factors in drawing up the tender documentation.

IMPACT ON POULTRY TRADE

13. The proposed development of the PSPP and the banning of sales of live poultry in wholesale markets and retail outlets will inevitably cause certain impact on the trade. On the other hand, however, the new operating environment will provide new business opportunities for the existing traders: subject to the slaughtering capacity of the PSPP and the Authority considering that the state of public health risk is acceptable, the trade may bring in more live poultry than the present for wholesaling and retailing to meet market demand. Moreover, the production of “freshly slaughtered chicken” other than chilled chickens by the PSPP would help diversify the products for supply to local consumers, thereby enhancing the business potential of, and reducing the impact of central slaughtering to, live poultry wholesalers and retailers.

14. To explore further possible means to help minimise the impact of the proposed development of the PSPP on the trade, we have started a new round of consultations with various stakeholders in the trade, including local poultry farmers, importers, wholesalers, retailers and transporters to brief them about the latest development of the proposal and to gauge their views and concerns on the proposal. We will continue to maintain close liaison with and active engagement of the trade on issues pertaining to the proposed development of the PSPP, particularly in the mode of operation as well as the scope of businesses of the PSPP. We are also studying possible measures to help those people directly affected by the proposal, including provision of suitable financial assistance for installing necessary equipment to help them prepare to shift to the wholesaling, retailing and transportation of “freshly slaughtered poultry” and chilled poultry. We will discuss with the trade the proposed assistance measures once we have concluded our study.

NEXT STEP

15. We will take into account the Panel’s comments in finalizing the legislative proposals related to the development of the PSPP. We plan to introduce a Bill into LegCo in early 2008 to amend Cap 132, followed by the introduction into LegCo for negative vetting the new PSPP Regulation and the other related legislative amendments as mentioned above. We will endeavour to provide the latest drafts of the new PSPP Regulation and the other related legislative amendments for Members’ reference when we introduce the aforementioned Bill.

ADVICE SOUGHT

16. Members are invited to comment on the proposals set out in paragraphs 5 to 15.

Food and Health Bureau
November 2007

List of Legislative Provisions Proposed to be Amended

<i>Ordinance/ Subsidiary Legislation</i>	<i>Section</i>
Public Health and Municipal Services Ordinance Cap 132	2, 77, 124I, 128A, 128B
Private Markets Regulation Cap 132BG	8, 16
Public Markets Regulation Cap 132BO	12
Food Business Regulation Cap 132X	4, 30(1A) to (1H), 30A to 30C, 31, 35, 37, Schedules 1 and 2
Public Health (Animals and Birds) Regulation Cap 139A	9A