

**For information
on 11 July 2012**

LegCo Panel on Food Safety and Environmental Hygiene

Implementation of the Food Safety Ordinance

Purpose

This paper briefs Members on the implementation of the Food Safety Ordinance.

Background

2. The Food Safety Ordinance (Cap. 612) (the Ordinance) came into full operation on 1 February 2012. The Ordinance introduces a food tracing mechanism to enable the Centre for Food Safety (CFS) to identify the source of food more effectively and take prompt action when dealing with food incidents in order to safeguard public health. The mechanism consists mainly of the following components:

- (a) a registration scheme for food importers and food distributors; and
- (b) a requirement for food traders to maintain proper transaction records to enhance food traceability.

CFS started to accept applications for registration from food importers and food distributors on 1 August 2011 when the Ordinance commenced. To allow sufficient time for food traders to adapt to the new requirements, the Ordinance provides for a six-month grace period up to 31 January 2012, during which the penalty provisions for failing to comply with the registration and record keeping requirements would not be implemented. The Ordinance came into full operation on 1 February 2012.

Registration Scheme for Food Importers and Food Distributors

3. The Ordinance requires food importers and food distributors to register with the Director of Food and Environmental Hygiene (DFEH). As a trade facilitation measure, food importers or food distributors who have already registered or have obtained a licence under other ordinances listed in Schedule 1

of the Ordinance are exempted from the registration requirement. They include holders of various food-related permissions or licences issued by DFEH, marine fish farmers licensed by the Director of Agriculture, Fisheries and Conservation, owners of Class III vessels licensed by the Director of Marine, and stockholders of rice registered by the Director-General of Trade and Industry, etc. CFS has notified in writing all parties concerned of their exemption from registration under the Ordinance.

4. The registration procedure, either by paper or electronic means, is convenient and simple. Only essential information such as the particulars of the registered persons or companies (e.g. name of corporation / applicant, name of business, address, telephone number, etc.) and details of the contact person and the food business is required. The registration is effective for a period of three years, and is renewable for another three years each time.

5. As at 6 June 2012, over 8 700 food importers and food distributors have been registered under the Ordinance, including 4 400 food importers and 4 300 food distributors. The figures are comparable to the estimates of about 8 600 food importers and distributors (4 350 food importers and 4 250 food distributors) in the Business Impact Assessment conducted in 2009.

Requirement of Keeping Transaction Records by Food Traders

6. The Ordinance also requires food traders to maintain records of movements of food. Any person who, in the course of business, imports, acquires or supplies by wholesale food in Hong Kong must keep transaction records of the business from which the food was obtained and the business to which it was supplied. Importers, distributors and retailers are required to keep all food import and local acquisition records. Importers and distributors also have to keep records of wholesale supply of food. The information to be recorded includes the date the food was acquired/supplied; the name and contact details of the company concerned; the total quantity of the food and a description of the food, etc.

7. Food retailers (including restaurants) who only supply food to ultimate consumers by retail are only required to keep acquisition records. Members of the public usually keep the sale receipts of food bought from retailers or at least should know the relevant retailer where the food was sold. If the food retailer in a food incident can be identified, CFS will be able to trace the respective distributor(s) or importer(s) from which the food was supplied through the food acquisition records of the retailer and deal with food incidents more effectively.

Publicity and Promotion

8. In view of the implications of the Ordinance, CFS has put much emphasis on publicity and promotion to ensure smooth implementation of the Ordinance.

Briefing Sessions

9. Between June 2011 and January 2012, CFS held 40 briefing sessions for the food trade in 18 districts, inviting over 1 500 members from the trade, including holders of various food-related permissions or licences, holders of hawkler licences, market stall lessees, tenants of wholesale food markets, food trade associations, fishermen, fish / vegetable farmers, stockholders of rice, etc. Apart from giving a detailed account of the requirements of the Ordinance at these briefing sessions, CFS also explained to caterers that although they did not need to register under the Ordinance, they were still required to keep local acquisition records and to keep import records of the food they brought to Hong Kong for use in food for supply / sale to their customers. Given that the Mainland is a major supplier of agricultural products to Hong Kong, officers from the Food and Health Bureau and CFS visited Beijing and Guangdong on 16 June and 23 June 2011 respectively to brief their Mainland counterparts and food exporters on the requirements of the Ordinance.

Further Briefings for Vegetable Farmers, Fishermen and Fish Farmers and Assistance in Applying for Registration

10. CFS organised a total of six briefings for vegetable farmers and fishermen / fish farmers in June and October 2011 respectively. Eight training sessions on record keeping were also arranged for fishermen during the fishing moratorium from May to July 2011.

11. In addition, CFS has simplified the application form for registration for vegetable farmers to facilitate their applications. Officers from CFS together with staff from the Vegetable Marketing Organization (VMO) paid visits to vegetable farms to assist farmers in registering. They also visited the vegetable depots of VMO and the Federation of Vegetable Marketing Co-operative Societies Ltd. to explain the requirements of the Ordinance and provided on-site registration service.

A Guide to the Registration Scheme for Food Importers and Food Distributors

12. To facilitate the trade's understanding of the registration scheme,

CFS has drawn up a “Guide to the Registration Scheme for Food Importers and Food Distributors” (the Guide). The contents include the procedures of registration and renewal, various application forms, etc. The Guide answers some of the frequently asked questions. For example, if a person conducts both food importation business and food distribution business, he should be registered as a food importer but may be exempted from registration as a food distributor. If a person has different businesses, he needs to be registered in relation to each business separately. The Guide also explains the situation of a change in business structure, such as when there is any change to the partners in a business (which means the old partnership is dissolved), the new partnership would need to authorise a partner to apply for a new registration. In addition, the Guide states the time required for processing an application for registration. For example, after the Ordinance comes into full operation, DFEH will grant approval to an application for registration within seven working days upon receipt of all the required information. CFS has fulfilled this performance pledge and so far has not received any complaints about the processing time of an application.

Code of Practice on Keeping Records Relating to Food

13. Section 43 of the Ordinance provides that DFEH may issue codes of practice. After consultation with the trade, the Code of Practice on Keeping Records Relating to Food was gazetted on 15 July 2011. This Code of Practice (the Code) provides details of the requirements on keeping records relating to food and lists various record keeping templates for reference. The Guide and the Code mentioned above were distributed to participants at the briefing sessions and posted on the dedicated webpage about the Ordinance (www.foodsafetyord.gov.hk) for reference of the trade.

Roving Exhibitions

14. Starting from September 2011, CFS held roving exhibitions at various shopping malls and housing estates to showcase the Ordinance with exhibition boards and distribute pamphlets and souvenirs of the Ordinance.

Advertisements in Newspapers, Magazines and on Public Transport

15. Apart from publishing newspaper supplements in April 2011, CFS also placed advertisements in newspapers, magazines, and at MTR stations, bus shelters during December 2011 and from January to February 2012, as well as broadcasted Announcements of Public Interest (APIs) on buses and posted InfoPanel messages in MTR train compartments in September 2011. On 15 January 2012, CFS issued a press release to remind members of the food trade

that the grace period provided under the Ordinance would end on 31 January 2012 and urged them to apply for registration before the deadline.

Posters, Booklets and Pamphlets

16. CFS has produced numerous posters and pamphlets introducing the Ordinance. These include pamphlets for fishermen and fish farmers, as well as booklets in 9 different languages, so that food traders of different ethnic groups are aware of and understand the requirements of the Ordinance.

TV and Radio Announcements of Public Interest and TV mini-series

17. Two TV and Radio APIs were broadcasted from mid-July and mid-December 2011 respectively and five one-minute TV episodes were on the air in September 2011. The above APIs and mini-series are posted on the dedicated webpage about the Ordinance.

Other Promotion

18. Since February 2012, over 150 promotion banners have been displayed at various sites of FEHD and the Agriculture, Fisheries and Conservation Department, including markets under FEHD, the Cheung Sha Wan Wholesale Food Market and Western Wholesale Food Market, the Man Kam To Food Control Office, the Lok Ma Chau Food Control Checkpoint, the wholesale fish markets operated by the Fish Marketing Organization (FMO) and VMO, etc.

19. Temporary workers are employed to assist in extending the promotion of the Ordinance to markets in different districts, the wholesale fish markets under FMO, the Fruit Wholesale Market in Yau Ma Tei, the Cheung Sha Wan Wholesale Food Market and Western Wholesale Food Market, etc. to familiarise stakeholders with the requirements of the Ordinance and help them with their registration.

Website of the Hong Kong Trade Development Council

20. In January and February 2012, CFS disseminated a series of promotion messages through the websites of the Hong Kong Trade Development Council (HKTDC) and the HKTDC's Food Expo. No less than 5 000 electronic mails were also sent to food traders in contact with HKTDC to remind them to register without delay if they are engaged in food importation and distribution businesses.

Law Enforcement

21. The grace period provided under the Ordinance ended on 31 January 2012. From 1 February, any person who does not register but carries on a food importation or distribution business commits an offence and is liable to a maximum fine of \$50,000 and to imprisonment for six months; and any person who fails to comply with the record keeping requirement also commits an offence and is liable to a maximum fine of \$10,000 and to imprisonment for three months.

22. In the first six months after the Ordinance came into full operation on 1 February 2012, CFS continues to assist the trade in complying with the requirements through publicity and education. If a food trader is found to have contravened any requirement under the Ordinance, a verbal warning will be issued, requiring the trader to rectify the situation within two weeks. If the trader fails to comply within two weeks, CFS will issue a warning letter, requiring the trader to take action to comply with the statutory requirement within two weeks. Otherwise, CFS will take prosecution action.

23. CFS has adopted a risk-based enforcement approach in carrying out inspections to food premises as scheduled. The priority and frequency of inspections are determined according to factors like risk classifications and modes of operation of the food premises. Food businesses dealing in high-risk foods like sashimi, sushi and oysters to be eaten raw are the main focus of inspections. Small shops, shops selling traditional foods and food distribution websites are also included in the inspections. Between 1 February and 6 June 2012, officers of CFS inspected 554 premises and issued 46 verbal warnings to food importers / distributors who had not registered under the Ordinance. Another 47 verbal warnings were issued to food traders who did not keep transaction records in accordance with the Ordinance. All food traders concerned were co-operative. Upon receiving verbal warnings, they rectified the irregularities before the deadline to comply with the Ordinance. There is no need for CFS to issue any warning letters or take any prosecution actions so far.

24. After six months of publicity and education, the law enforcement strategy will be tightened during the half-year period between 1 August 2012 and 31 January 2013. If a food trader is found to have failed to register or maintain records in accordance with the Ordinance during inspection, a warning letter will be issued, requiring the trader to take action to comply with the requirements within two weeks. If the trader fails to do so, CFS will initiate prosecution. Starting from 1 February 2013, all non-compliant cases will be subject to direct prosecution.

25. The record keeping requirement under the Ordinance enables CFS to promptly trace the source of the problem food and its movements in food surveillance. For example, the cadmium level of certain onion samples was found to exceed the statutory limit in a recent testing of food samples collected from the Cheung Sha Wan Wholesale Food Market. In response to CFS's request for information on the source of food, the wholesaler produced the invoice on the next day, enabling CFS to obtain information on the source of the food source and take follow-up action. This demonstrates that the Ordinance does facilitate CFS in tracing problem food quickly and eliminating food safety risks.

Advice Sought

26. Members are invited to note and comment on the progress of implementation of the Ordinance.

**Food and Health Bureau
Food and Environmental Hygiene Department
Centre for Food Safety
July 2012**