

(Revised)

For discussion  
on 2 July 2004

FCR(2004-05)25

## ITEM FOR FINANCE COMMITTEE

### GENERAL REVENUE ACCOUNT

### HEAD 49 – FOOD AND ENVIRONMENTAL HYGIENE DEPARTMENT

### Subhead 700 General non-recurrent

New Item “Ex-gratia payment to live poultry retailers surrendering their licences with endorsement to sell live poultry or public market tenancies”

New Item “Re-training and one-off grants to assist affected live poultry retail workers”

### LOAN FUND

### HEAD 262 - PRIMARY PRODUCTS

New Subhead "Loans to live poultry retailers"

Members are invited to approve –

- (a) the creation of a new commitment of **\$236,428,000** for making ex-gratia payment to live poultry retailers who choose to surrender their fresh provision shop licences with endorsement to sell live poultry or public market<sup>1</sup> tenancies, as appropriate;
- (b) the creation of a new commitment of \$83,028,000 for providing up to eight weeks of retraining courses and one-off grants to assist affected live poultry retail workers; and
- (c) the creation of a new subhead “Loans to live poultry retailers” under Loan Fund with a commitment of \$9,000,000 for making loans on an unsecured basis to live poultry retailers holding fresh provision shop licences with endorsement to sell live poultry who wish to continue operating to upgrade their facilities to enhance their sanitary and hygiene conditions.

**/PROBLEM .....**

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<sup>1</sup> Public markets refer to those markets that are under the Food and Environmental Hygiene Department.

## PROBLEM

To implement our policy objective of separating humans from live poultry to further minimize the risk of human infection by avian influenza, we need to formulate an incentive package to encourage live poultry retailers to surrender their licences or tenancies, as appropriate, so that we may introduce fundamental changes to the way in which the live poultry retail trade operates.

## PROPOSAL

2. We propose to –
  - (a) create a new non-recurrent commitment of **\$236,428,000** under Head 49 Food and Environmental Hygiene Department (FEHD) Subhead 700 General non-recurrent for making ex-gratia payment (EGP) to live poultry retailers who choose to surrender their fresh provision shop (FPS) licences with endorsement to sell live poultry or public market tenancies, as appropriate;
  - (b) create a new non-recurrent commitment of \$83,028,000 under Head 49 Food and Environmental Hygiene Department Subhead 700 General non-recurrent for providing retraining and one-off grants to assist affected live poultry retail workers; and
  - (c) create a new subhead “Loans to live poultry operators” under the Loan Fund Head 262 Primary Products with a commitment of \$9,000,000 for providing loans on an unsecured basis to live poultry retailers holding FPS licences with endorsement to sell live poultry who wish to continue operation to enhance the sanitary and hygiene conditions.

## JUSTIFICATION

3. Since 1998, we have put in place a comprehensive preventive and surveillance programme to reduce the risk of avian influenza outbreaks in Hong Kong. However, these measures are not foolproof. Although all our chickens have been vaccinated against H5 avian influenza, vaccination itself cannot eradicate the risk that any H5N1 avian influenza virus may reassort or mutate to the extent that it may pose a serious threat to public health. Moreover, the vaccine that we use would have no effect on other types of avian influenza viruses (such as H7-type which may be highly pathogenic). The H5 virus has been found to be able to jump across species to affect humans. There remains a risk that the virus may reassort with other human influenza virus to produce a lethal human pandemic strain.

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

5. In Hong Kong, consumers can come into close contact with live poultry easily because they are sold in the retail outlets. The crowded living environment in Hong Kong further amplifies the risk. It is therefore the Government's policy to separate humans from live poultry as far as practicable so as to minimise the risk of human infection from the disease. To implement this policy, there is a need, among others, to improve the design and layout of live poultry stalls by enlarging the size of individual stalls in retail markets. This would require a significant reduction in the number of live poultry stalls in retail markets in order to enable us to reconfigure the existing live poultry stalls. Some members of the trade who are not able to adapt to the new mode of operation may choose to cease business and may need financial assistance. Some FPS licensees, particularly those operating in private premises, might need financial assistance to change the configuration of their stalls to enhance the sanitary and hygiene conditions.

6. Following the recent avian influenza outbreaks in the region, we have reviewed the risk management of imported live poultry and we concluded that we should maintain the maximum amount of live poultry in our retail markets at a level of half of the existing capacity. We are currently maintaining a level of imports of live poultry at 30 000 per day having regard to the new inspection and quarantine procedures that have been put into place following the trial period of import resumption, our limited laboratory and quarantine capacity in dealing with future outbreak situations in the Mainland and the potential health risk posed by large quantities of live poultry in the retail markets.

7. In our consultation with the Legislative Council (LegCo) Panel on Food Safety and Environmental Hygiene, live poultry trade associations and workers' unions and District Councils, there have been requests for the Government to provide retraining and one-off grants to live poultry retail workers who lose their jobs as a result of their employers ceasing operation by surrendering their licences or tenancies to the Government under the proposed package.

## **THE PROPOSED PACKAGE**

8. We propose to allocate **\$329,000,000** to fund the proposed incentive package for live poultry retailers to surrender their licences or tenancies, loans to live poultry retailers continuing operation and provide retraining and one-off grants to assist affected workers in the live poultry retail trade.

/A. ....

*A. EGP to live poultry retailers who choose to surrender their FPS licences with endorsement to sell live poultry or public market tenancies on a voluntary basis*

9. To provide financial relief to those live poultry retailers who choose to surrender their FPS licences with endorsement to sell live poultry or public market tenancies voluntarily, we propose to provide EGP to live poultry retailers. The proposed EGP is calculated on the basis of 39 months' average rental of live poultry stalls at public markets with particular reference to the EGP for the resumption of stalls in the Central Market plus an additional 12-month average rental taking into account that the retailers will not be allowed to re-establish their new business to sell live poultry elsewhere. Because the live poultry stalls in public markets vary in sizes, there is a need to ensure that smaller-sized stalls (i.e. those up to 25 m<sup>2</sup>) are given the appropriate incentive to surrender their licences/tenancies as they are likely to be the most vulnerable to the risk of avian influenza and that there is virtually no scope for any improvements to the design and physical lay-out of the stalls. All stalls are therefore divided into five major categories according to their size and the EGP is based on the maximum size of that particular category. All stalls falling within the same category will receive the same amount of EGP although their actual sizes are smaller than the maximum size of that particular category. The EGP amount, for small-sized outlets are enhanced by applying a 25% and 10% increase for stalls of sizes up to 15 m<sup>2</sup> and sizes between 15 m<sup>2</sup> to 25 m<sup>2</sup> respectively. On the other hand, a maximum ceiling of 55 m<sup>2</sup> has been set for the large-sized outlets, i.e. stalls over 45 m<sup>2</sup>, as unlike small-sized stalls, they should have less difficulties in enhancing their sanitary and hygiene requirements.

10. We consulted the LegCo Panel on Food Safety and Environmental Hygiene on the proposed package for live poultry retailers on 25 May 2004. The majority of Members supported the provision of an incentive package for live poultry retailers to surrender their licences or tenancies. However, some Members requested the Administration to offer a more generous package to the affected workers to alleviate the possible hardship that they might face if their employers chose to surrender the licences or tenancies. Some Members also considered that the proposed EGP amounts were not attractive enough. We also consulted representatives of the live poultry retail trade.

11. Having considered these views and the need for early implementation of our policy to separate humans from live poultry at the retail level, we propose to increase the EGP amounts by about 40% to **62.6%** of the initial offer to make them more attractive.

12. The EGP is only payable to poultry retailers renting live poultry stalls in public markets or holding valid FPS licences with endorsement to sell live poultry. The retailers will be required to surrender their existing tenancies or the FPS licences with endorsement to sell live poultry, as appropriate, before receiving the EGP.

13. The following table shows the EGP for various categories of stalls -

(a)	(b)	(c)	(d)	(e)
Size of stalls as assessed by FEHD (m <sup>2</sup> )	Size for calculating EGP (m <sup>2</sup> )	Estimated no. of stalls	Proposed EGP per stall (Note) (rounded up to nearest \$'000) (\$)	Total (c) x (d) (\$)
Up to 15	15	91	<b>200,000</b>	<b>18,200,000</b>
Above 15 – 25	25	425	252,000	107,100,000
Above 25 – 35	35	192	321,000	61,632,000
Above 35 – 45	45	42	412,000	17,304,000
Above 45	55	64	503,000	32,192,000
<b>Total:</b>		814		<b>236,428,000</b>

**Note -** The initial offer of EGP as presented to the LegCo Panel on Food Safety and Environmental Hygiene on 25 May 2004 ranged from \$123,000 to \$359,000. The proposed EGP rate as indicated in column (d) above has been enhanced by about 40% **to 60%**

Encl. 1

Detailed computation of the standard rate is at Enclosure 1.

14. The Government has the absolute discretion not to entertain applications from retailers where the situation warrants.

15. The market tenants/FPS licensees's decision to surrender the market tenancies/FPS licences selling live poultry is binding on them and is irreversible once the tenants/FPS licensees have entered into a contractual agreement with the Government. However, if any market tenant/FPS licensee concerned fails to cease the live poultry retail business so required under the agreement on the termination date, the Government will no longer be bound to pursue the agreement further.

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16. To tie in with our policy to reduce the number of live poultry stalls, we will in future limit the transfer of FPS licences to immediate family members (i.e. parents, spouses, children) so as to avoid the sale of such licences by FPS licensees.

17. If the live poultry retailer has owed the Government any outstanding market stall rental or has failed to repay any loan and interest thereon under the loan schemes for retailers affected by the avian influenza outbreaks in 1997 and 2001 or the proposed new loan scheme under paragraph 22 below, the Government will deduct the outstanding market stall rental or unpaid loan and interest thereon from the EGP payable to the retailer.

18. We would also waive the one-month advance notice requirement for the termination of market tenancies for those stallholders leasing live poultry stalls in public markets who submit an EGP application provided they have ceased the live poultry retail business from the EGP application date and the tenancy termination will take effect within 30 days from the application date. Rental, if already paid, for the remaining period after the application date would be refunded.

***B. Retraining and financial assistance for live poultry workers***

19. To assist those live poultry retail workers to find employment in other sectors as a result of their employers ceasing operation under the proposed scheme, we propose to provide up to eight weeks<sup>2</sup> of retraining courses to those affected workers within a six-month period from the date of cessation of business by their former employers. We shall invite the Employee's Retraining Board (ERB) to be the delivery agent of the retraining services under the scheme. Retraining courses will be tailor-made for the affected live poultry workers and ERB will recover the full cost of retraining from the Government. Workers could receive a special allowance of up to \$8,000 if they have attended eight weeks of retraining courses and have attained at least 80% attendance in each of the retraining courses. Where necessary, they can approach the Labour Department for employment assistance. Live poultry operators surrendering their licences or tenancies will not be allowed to attend such tailor-made courses for workers as they have already received EGP.

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<sup>2</sup> In our initial proposal in May 2004, we proposed to provide only six weeks of retraining courses for workers.

20. For those affected workers who continue to remain unemployed after attending at least 80% of these tailor-made retraining courses within a six-month period from the date of cessation of business by their former employers, a one-off grant of \$10,000 per affected worker will be provided to assist them to meet their immediate financial needs. Workers with further financial hardship would then come under the Government's general protection for the unemployed. However, these unemployed live poultry retail workers would be subject to the usual terms and conditions of the Comprehensive Social Security Assistance Scheme if they apply for such assistance. Given that live poultry operators surrendering their licences or tenancies would receive EGP, they would not be eligible for the one-off grant.

Encl. 2 21. The total amount of funding required for the tailor-made retraining courses inclusive of retraining allowance and one-off grants is estimated to be about \$83,028,000. Detailed criteria for the one-off grant are at Enclosure 2.

***C. Loans to live poultry retailers continuing operation for the purpose of enhancing the sanitary and hygiene conditions***

22. We propose to offer loan facilities to licensees of all existing fresh provision shops selling live poultry who choose to continue with their trading operations to upgrade their facilities so as to avoid human contacts with live poultry. We propose to set the maximum amount of the proposed unsecured loan to \$50,000 or 60%<sup>3</sup> of the refurbishment costs, whichever is less, per licence. The loans, to be released to the applicants in a maximum of two phases, should attract an annual interest at the Government's "no gain, no loss" interest rate<sup>4</sup> and be repayable in 24 equal monthly installments, beginning three months after full draw-down of the loan or six months after the first drawdown, whichever is earlier. Interest will accrue upon draw-down and be paid together with each installment. If a live poultry retailer receiving the loan subsequently decides to accept EGP for the cessation of business, the outstanding loan amount together with the accrued interest would be deducted from the total amount of EGP the retailer would otherwise be eligible to. It is difficult to estimate the number of live poultry retailers who would apply for the loans. For budgetary purpose, we assume that the take up rate for the improvement loans is about 50%. As such, a commitment amounting to \$9,000,000 will be required for this purpose. Licensees operating in public housing estates will not be offered such loans in case Housing Authority (HA)/Housing Society (HS) are to fund the improvement works to upgrade the live poultry stalls. We have informed HA/HS of the proposed renovation works to live poultry stalls in public markets. The detailed criteria for the loan are at Enclosure 3.

Encl. 3

**/Mechanism .....**

<sup>3</sup> In our initial proposal in May 2004, we proposed to set the maximum amount of the proposed loan to \$50,000 or 40% of the refurbishment costs, whichever is less, per licence.

<sup>4</sup> The Government's "no-gain-no-loss" interest rate is set at 2.174% below the average best lending rate of the note-issuing banks. The current "no-gain-no-loss" rate is 2.826% per annum.

**Mechanism to ensure employers to discharge responsibilities**

23. 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.

24. 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 till the employers have discharged their responsibilities towards the employees. The retained portion of EGP would be paid to the retailers 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.

25. Subject to funding approval from the Finance Committee, we plan to invite applications from the live poultry retailers as soon as possible and the scheme will last for one year.

**FINANCIAL IMPLICATIONS**

26. We estimate the total amount required for live poultry retailers and the affected workers under the proposed package at about **\$329,000,000** with breakdown as follows –

/EGP .....



	<b>\$'000</b>
EGP to live poultry retailers surrendering their FPS licences with endorsement to sell live poultry or tenancies	<b>236,428</b>
Retraining and one-off grants to assist affected live poultry retail workers	83,028
Loans to live poultry retailers holding FPS licences with endorsements to sell live poultry who choose to continue operation to upgrade their facilities	9,000
<b>Total</b>	<b>328,456</b>
<b>Say</b>	<b>329,000</b>

27. The proposed creation of new commitments of **\$319,457,000** for EGP to live poultry retailers, retraining courses for live poultry workers, grants to affected live poultry workers and a new loan commitment of \$9,000,000 for providing loans to live poultry retailers are one-off commitments. The FEHD will administer the proposed EGP, loan schemes and grants for workers in the live poultry retail trade using its existing staff resources. There are no recurrent implications to the General Revenue.

28. It should be noted that funding had been provided earlier this year to live poultry operators to alleviate their financial difficulties due to the suspension of importation of live poultry from the Mainland. A financial relief package totalling \$8,443,000 for the live poultry trade was announced on 25 February 2004. On 26 March 2004, the LegCo Finance Committee further approved a commitment of \$42,000,000 for making EGPs to the live poultry trade. Rental waivers amounting to \$18,000 were also provided to operators of the crate washers at the Cheung Sha Wan Temporary Wholesale Poultry Market.

## **BACKGROUND INFORMATION**

29. FEHD met with representatives of the retailers' associations on 27 May 2004 to brief them on the details of the proposed package. FEHD also sent a letter to all the 814 live poultry retailers to advise them of the proposed package and arranged discussion sessions with the retailers to seek their views. The Administration also met with the representatives of various sectors of the live poultry trade on 1 June 2004.

30. We consulted the LegCo Panel on Food Safety and Environmental Hygiene on the proposed package for live poultry retailers on 25 May 2004 and their views are listed in paragraph 10 above.

**URGENCY**

31. We have placed this item on the agenda for 2 July 2004, which is the first available Finance Committee meeting after we have sorted out the key issues under the proposed scheme and the last meeting before the close of the current legislative session. This is to ensure that, if the proposals are approved by Members, we can implement the proposals as soon as possible. We apologize for the inconvenience caused to Members by the late issue of the paper.

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Health, Welfare and Food Bureau  
July 2004

**Standard Rate of Ex-gratia Payment (EGP)**

The standard rate of EGP per m<sup>2</sup> is \$6,523 and is calculated as follows -

Average monthly rental (excluding separate air-conditioning charges) of public market stalls selling live poultry	\$3,628
EGP based on 39 months' rental	\$141,492
Average stall area (including share of communal scalding room)	21.69 m <sup>2</sup>
EGP per m <sup>2</sup>	\$6,523

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## **Retraining and One-off Grants to Affected Live Poultry Retail Workers**

### **Eligibility criteria for retraining**

1. To be eligible for the retraining, the full-time or part-time workers<sup>5</sup> must be working in the live poultry retail trade for at least 90 days during the one-year period immediately before 2 July 2004 and have remained working in the live poultry retail trade until the live poultry retailers have submitted an application to the FEHD for surrendering the market tenancy or FPS licence with endorsement to sell live poultry.

2. The applicant must make a statutory declaration on his employment status to support his claim in present/former employment in the live poultry retail trade and should as far as practicable 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 statutory 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 retail operators who have purchased their services. The employment information provided by the applicant and the employer(s) might be sent to the relevant Government departments or public organizations for cross-checking purposes. The applicant and the employers concerned will be held responsible for any legal consequences for false declaration and might be liable to prosecution by the Government.

### **Eligibility criteria for one-off grants**

3. To be eligible for the one-off grant, the applicant must provide evidence to show that he –

(a) has attended eight -weeks of tailor-made retraining courses organized by the ERB or its approved agents and has attained at least 80% attendance in each of the courses; and

(b) remains unemployed at the time of application for the one-off grant.

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<sup>5</sup> Part-time workers refer to those workers who have been working in the live poultry retail business for at least 72 hours over a period of four weeks.

4. The applicant must make a statutory declaration that his employment status at the time of his submission of an application for financial assistance. The information provided by the applicant might be sent to the relevant Government departments or public organizations for cross-checking purposes. The applicant will be held responsible for any legal consequences for false declaration and might be liable to prosecution by the Government.

5. Live poultry retail operators who become unemployed after surrendering their licences or tenancies are not eligible for the retraining courses and one-off grants as they have already received EGP when they surrender their market tenancies/FPS licences to sell live poultry.

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## Enclosure 3 to FCR(2004-05)25

### Loans for live poultry retailers

1. Purpose of loan To assist live poultry retailers holding fresh provision shop (FPS) licences to upgrade their facilities to enhance the sanitary and hygiene conditions.
2. Qualifications of applicants Applicant must be a live poultry retailer licensed to operate a FPS.
3. Number of loan No more than one loan per FPS licence.
4. Maximum amounts of loan Maximum of \$50,000 or 60% of the refurbishment costs, whichever is less, for each licensee. The loans would be released to the applicants in a maximum of two draw-down.
5. Interest Interest will be charged at Government's "no gain, no loss" interest rate and will accrue upon draw-down.
6. Repayment Loans to be repaid by 24 monthly installments. Repayment to start three months after full draw-down of the loan or six months after the first draw-down, whichever is earlier.

In case of default in repayment, the Director of Food and Environmental Hygiene (DFEH) may recover the sum outstanding together with the accrued interest from the borrower in such manner as he thinks fit. Additional interest at the average best lending rates of the note-issuing banks plus 2% will also be charged on any overdue amount (including accrued interest in arrears) until it is fully repaid.

If a live poultry retailer receiving the loan subsequently decides to accept EGP for the cessation of business, the outstanding loan amount together with the accrued interest would be deducted from the total amount of EGP the retailer would otherwise be eligible to.

7. Submission of applications Applications are to be submitted to DFEH.  
  
Applicants must submit their applications in the form specified by DFEH and submit such additional supporting information and documents as may be required by DFEH.

/Applications .....

Applications must be submitted within 12 months from a date to be appointed by DFEH.

8. Authority for approval of loans

DFEH and officers authorized by him may approve any loan up to \$50,000. All the loans are to be administered by FEHD.

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