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Panel on Food Safety and Environmental Hygiene

Information Note prepared by the Legislative Council Secretariat for the meeting on 11 February 2014

Regulatory control on sale of chilled meat in fresh provision shops

Purpose

This information note provides background information on the Administration's improvement measures taken in response to the recommendations made by the Office of The Ombudsman in its direct investigation report on the regulation of sale of chilled meat ("the Ombudsman's Report") by the Food and Environmental Hygiene Department ("FEHD").

Background

2. Under section 31(1)(d) of the Food Business Regulation (Cap. 132X) ("the Regulation"), any person who carries on any food business which involves the sale of fresh, chilled or frozen beef, mutton, pork, reptiles, fish or poultry must obtain a fresh provision shop ("FPS") licence. Anyone selling chilled meat without permission is committing an offence and is liable to a maximum fine of \$50,000 and six month's imprisonment on conviction. As at November 2013, a total of 2 600 FPS licences have been issued.

3. One of the licensing conditions stipulated by FEHD for FPSs selling chilled meat is that chilled meat must be kept in a refrigerator and stored at a temperature between 0°C and 4°C. Sections 30D and 30E of the Regulation also prohibit the sale, or offer or exposure for sale, or possession for sale fresh beef, mutton or pork and chilled beef, mutton or pork at the same market stall or premises on which the business of a FPS is carried on unless the chilled beef, mutton or pork is pre-packaged and the package is marked and labelled in the prescribed manner.

4. According to the Administration, FEHD adopts a Risk-based Inspection System ("RBIS") through which resources are allocated on a priority basis to the inspection of licensed food premises with higher risks and with lower hygiene standards. As stated in the Administration's replies to Members' initial written questions during the examination of the Estimates of Expenditure 2013-2014, licensed food premises selling chilled meat/poultry are inspected once every four, 10 or 20 weeks depending on their respective risk type under RBIS, whereas stalls in public markets with permission to sell chilled meat/poultry are inspected once every eight weeks. In 2010, 2011 and 2012, the number of prosecution taken against licensed food premises and stalls in public markets for selling chilled meat/poultry without permission was five, 18 and three respectively. Actions taken against selling of chilled/frozen meat/poultry as fresh meat/poultry have resulted in the cancellation of one food premise license in 2010, the termination of two market stall tenancy agreements in 2011 and the termination of one market stall tenancy agreement in 2012.

The Ombudsman's Report

5. In the Ombudsman's Report issued in October 2013, The Ombudsman commented that FEHD's monitoring of shops selling chilled meat was lax despite stringent requirement of the licensing system. The Ombudsman also revealed several inadequacies of FEHD including the following - (a) inspections were infrequent; (b) the informal verbal warnings were not effective; (c) shops with irregularities were allowed too much time for rectification; (d) the issue of new licenses to offenders was too lenient; and (e) publicity and public education were inadequate.

6. The Ombudsman also expressed concern that the prevalence of shops improperly storing and displaying chilled meat without refrigeration would expose consumers to health risks such as food poisoning. The Ombudsman made eight recommendations to FEHD for improvement as follows -

- (a) to suitably raise the risk category of shops selling chilled meat and increase the frequency of regular inspections of shops, particularly those that have already been given formal or informal warnings; also to conduct surprise inspections on shops that have received warnings to ensure more effective monitoring and curb the prevalent problem of improper storage of chilled meat;
- (b) to define "minor" irregularities clearly, having regard to food safety requirements, and require strict observance by inspectors; also to instruct inspectors to issue a verbal warning under the Warning

Letter System immediately in case of a subsequent offence by a shop with a "minor" irregularity, whether the new offence involves a "minor" or major irregularity;

- (c) to strictly require prompt action by shop operators to rectify their irregularities after receiving a verbal warning or warning letter; failing which, FEHD should immediately step up its enforcement action under the Warning Letter System;
- (d) for any person whose FPS licence has previously been cancelled due to repeated offences, to refuse to process within a specified period of time any application by that person or his/her representative for a fresh provision shop or related licence in respect of the same premises;
- (e) to expedite the processing of licence applications for FPSs in order to minimize unlicensed operations by applicants, and to take stronger enforcement actions against those shop operators who have no intention of applying for a licence at all;
- (f) to conduct more rigorous investigation on cases of sale of chilled meat as fresh meat and enhance the ability and efficiency of staff in collecting evidence to prosecute those offenders;
- (g) to release information through the media about shops which are persistently involved in irregularities and upload such information on to the websites of FEHD and the Centre for Food Safety for easy public access, thus helping to safeguard the health of consumers and deter offences; and
- (h) to enhance publicity and public education through various channels to inform citizens that shops must store and display chilled meat at 0°C and 4°C, that failure to do so is a breach of the licensing condition and will speed up the spoilage of the meat, which will possibly result in food poisoning and other health risks even if the meat is cooked.

Latest Development

7. Following the release of the Ombudsman's Report, some members of the Panel on Food Safety and Environmental Hygiene ("the Panel") expressed concern about the Administration's alleged inadequacies in regulating shops

selling chilled meat. The Administration was requested to provide a response on the issues raised in the Ombudsman's Report.

8. According to the Administration's reply dated 11 November 2013, FEHD has already implemented some of the Ombudsman's recommendations and would consider how to take on other recommendations. Measures that have already been implemented include the following -

- (a) upon detection of breaches of the licensing conditions, FEHD staff will issue verbal warnings and warning letters for immediate rectification actions. If a licensee has been issued with three warning letters within a period of six months, FEHD will consider cancelling the licence;
- (b) in respect of a FPS licensee whose licence has previously been cancelled due to repeated breaches of licensing conditions, FEHD will formulate guidelines under which the licensing office would refuse to process application from the former licensee, his/her representative or business partner, for any FPS licence in relation to the same premises for a period of 12 months after the cancellation of the licence;
- (c) FEHD will step up follow-up inspections to FPSs with verbal warnings or warning letters for storage or sale of chilled meat/poultry at improper temperatures, until there is persistent improvement to the situation;
- (d) FEHD requires, on a mandatory basis, the appointment of a full time Hygiene Supervisor with relevant training to supervise food safety and hygiene at licensed food premises; and
- (e) FEHD will provide relevant health education to the licensees, and organize talks, seminars and workshops for the trade on matters related to food safety and hygiene, in addition to publishing pamphlets and posters for promoting awareness and educating the public on the proper storage of chilled meat.

9. The Administration will brief the Panel on the regulatory control on sale of chilled meat in FPSs at the meeting on 11 February 2014.

Relevant papers

10. A list of relevant papers on the Legislative Council's website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
5 February 2014

Appendix

**Relevant papers on
Regulatory control on sale of chilled meat in fresh provision shops**

| Committee | Date of meeting | Paper |
|---|------------------------|--|
| Finance Committee <i>(Special meeting to examine the Estimates of Expenditure 2013-2014)</i> | -- | <u>Administration's replies to Members' initial written questions (Reply Serial Nos. FHB(FE)135)</u> |
| Panel on Food Safety and Environment of Hygiene | -- | <u>Administration's response to the two letters dated 24 and 26 October 2013 respectively from Dr Hon Kenneth CHAN and Dr Hon KWOK Ka-ki on issues relating the regulation of shops selling chilled meat</u> |

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