

**For discussion
on 11 March 2014**

**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.

3. Through the Food Surveillance Programme, CFS effectively monitors whether the food on sale in the market complies with the legal requirements and whether it is fit for human consumption. Should there be a food incident, CFS can, by virtue of the registration scheme under the Ordinance (paragraph 4 below), promptly identify and contact the food importers and distributors concerned to prevent further sale of the problem food. Through the records kept by food traders, CFS can also obtain information on the source of the problem food and its distribution (paragraphs 8 and 9 below). The mechanism allows CFS to more

accurately assess the scale of the incident and movements of the food in question, as well as the necessary follow-up actions to be taken. When the sources of the problem can be identified early, it would prevent food of the same type without any problem from being implicated unnecessarily. This would also be of great help in restoring public confidence in food safety and maintaining the stability of food supply.

Registration Scheme for Food Importers and Food Distributors

4. The Ordinance requires food importers and food distributors to register with the Director of Food and Environmental Hygiene (DFEH). 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. Under the Ordinance, DFEH must keep a register of food importers and food distributors for public inspection. The public (including food traders) may therefore inspect the register at any time to find out the status of their trading partners to avoid purchasing food from unknown sources, thus protecting consumers and food traders.

5. 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 would, by exercising the power vested in DFEH under the Ordinance, obtain the information mentioned in paragraph 4 above from the relevant departments as well as the exempted food importers and distributors.

6. As at 31 December 2013, 12 738 food importers and food distributors have been registered under the Ordinance, including 6 779 food importers and 5 959 food distributors. The respective numbers of food importers and food distributors exempted from registration are 476 and 865.

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

7. 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 as well as various types of application forms, etc. The Guide also answers some of the frequently asked questions and states that 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. The Guide has been posted on the dedicated webpage about the Ordinance (www.foodsafetyord.gov.hk) for reference of the trade.

Requirement of Keeping Transaction Records by Food Traders

8. 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 the 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.

9. 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.

Code of Practice on Keeping Records Relating to Food

10. Under Section 43 of the Ordinance, DFEH may issue codes of practice. After consultation with the trade, the Code of Practice on Keeping Records Relating to Food (the Code) was gazetted on 15 July 2011. The Code provides details of the requirements on keeping records relating to food and lists various record keeping templates for reference. The Code has been posted on the dedicated webpage about the Ordinance (www.foodsafetyord.gov.hk) for reference by the trade.

Law Enforcement

11. The Ordinance provides that 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.

12. Every year, staff of CFS conduct inspections on food importers, distributors and retailers to ensure that they comply with the registration scheme and the requirement of keeping transaction records under the Ordinance. CFS has adopted a risk-based enforcement approach in conducting inspections of 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 foodstuffs like sashimi, sushi and oysters to be eaten raw are the main focus of inspections. Small shops, shops selling traditional food and food distribution websites are also included in the inspections.

13. In 2013, staff of CFS inspected 472 premises and instituted three prosecutions against food importers/distributors who had not registered under the Ordinance. All three cases were convicted, with a fine of \$5,000 imposed in two of the cases and a fine of \$1,000 in the remaining one.

14. Since its implementation, the Ordinance has enabled CFS to promptly trace the source of the problem food and its movements in food surveillance when dealing with food incidents, thereby effectively eliminating food safety risks. For example, in December 2013, CFS found a rice product on sale in the local market with the level of heavy metal cadmium exceeding the statutory limit. By checking the acquisition records kept by the retailer concerned, CFS noted that the retailer had purchased the rice directly from the importer. CFS also confirmed from the transaction records of the importer that the retailer was the major purchaser of the product in question. Warning letters were subsequently issued to both the retailer and the importer, ordering them to suspend sale of the affected batch of the product. CFS also obtained information on the Mainland supplier from the records of the importer, and provided such information to the relevant Mainland authority for investigation and follow-up at the exporting end.

Prohibiting the Import and Supply of Problem Food and Ordering the Recall of Such Food

15. In the wake of the Fukushima nuclear power plant incident in Japan on 11 March 2011, CFS started conducting targeted radiation testing on food imported from Japan the following day. On 23 March 2011, the radiation levels of three samples of food products imported from Japan were found to have exceeded the relevant guideline levels laid down by the Codex Alimentarius Commission (Codex). DFEH promptly exercised the power provided under the Public Health and Municipal Services (Amendment) Ordinance 2009 and made an order prohibiting the import of certain fresh produce and milk products from five prefectures (Fukushima, Ibaraki,

Tochigi, Gunma and Chiba) of Japan with effect from 11 March 2011¹, as well as the supply of these products within Hong Kong. The order is still effective.

16. With the enactment of the Ordinance, the provisions of the Public Health and Municipal Services (Amendment) Ordinance 2009 which empower DFEH to make the aforesaid food safety orders have been transferred to the Ordinance for continued operation. Since the Ordinance came into operation, there has not been any need for DFEH to make such an order.

Advice Sought

17. 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
March 2014

¹ The food involved include:

- (a) all vegetables and fruits;
- (b) all milk, milk beverages and milk powder; and
- (c) all chilled or frozen game, meat and poultry, all poultry eggs and all live, chilled or frozen aquatic products, unless accompanied by a certificate issued by the competent authority of Japan certifying that the radiation levels do not exceed the guideline levels laid down by Codex.