

For information

Legislative Council
Panel on Food Safety and Environmental Hygiene

**Ex-gratia Payments to Live Poultry Operators
affected by the Suspension of Live Poultry Imports from the Mainland**

PURPOSE

This paper briefs Members on the provision of ex-gratia payments (EGPs) as applicable to live poultry operators affected by the four-month suspension of import of live poultry from the Mainland running from 19 February 2014.

BACKGROUND

2. On 27 January 2014, we detected H7 avian influenza (AI) in an imported consignment of live poultry. The Administration took immediate measures to cull all the birds in the Cheung Sha Wan Temporary Wholesale Poultry Market (the wholesale poultry market) and closed the market for 21 days for thorough cleansing and disinfection. Apart from the statutory compensation of \$30 for each bird culled as provided for under the Public Health (Animals and Birds) Ordinance (Cap. 139), we proposed the provision of EGPs to affected poultry operators to help alleviate the financial hardship caused by the suspension of trade in the immediate run-up to the Lunar New Year when market demand for and the price of live poultry peaked. The Finance Committee (FC) approved the compensation and EGP package on 21 February 2014 (vide FCR(2013-14)61).

3. In the aftermath of the recent AI incident, many members of the public in Hong Kong, Legislative Council Members as well as stakeholders in the local poultry trade suggested that the Government should consider holding the imported poultry at a suitable location until the AI testing results are available before releasing them to the wholesale poultry market. In response, and without prejudice to the protection of public health, the Government agreed to look into practical arrangements that would help avoid causing disruption to the operation of the live poultry trade and the continued supply of live poultry in Hong Kong in case of detection of H7 AI virus in imported live poultry in future. Since it would take time to work out and

put in place the suitable arrangement¹, the Government decided on 19 February 2014 (when the wholesale poultry market resumed operation) to continue suspension of the import of live poultry from the Mainland for around four months (hereafter referred to the “four-month suspension”).

4. When announcing the decision on the four-month suspension, the Administration undertook to assess its impact on the live poultry operators concerned, in terms of financial hardship caused. Based on our assessment, we see a case for providing EGPs to some of the stakeholders.

THE EX-GRATIA PAYMENT PACKAGE

5. We will provide EGPs as applicable to (a) wholesalers who have been engaged solely in the trading of imported live poultry; (b) wholesalers who have been engaged in the trading of both imported and local poultry, with the former accounting for more than 50% of their business volume; (c) transport operators who rely solely on business generated by the import of live poultry from the Mainland; and (d) a retailer who trades only imported pigeons. This is to help meet their operational expenses, including paying wages to their workers and various other fixed commitments and costs, with a view to alleviating the financial hardship caused by the four-month suspension of business.

Wholesalers who trade imported live poultry

6. Currently, there are 23 wholesalers in the poultry wholesale market. Of them, 11 are engaged in trading imported live poultry only; four in local live poultry; six are dealing in both imported and local poultry; whilst two are inactive. While the business of the four wholesalers who trade solely local live poultry are not affected during the four-month suspension when local live chicken supply remains stable, we see a case for granting EGPs to some of the other wholesalers.

7. For the 11 live poultry wholesalers who specialise in sourcing live poultry from registered poultry farms in the Mainland, they arrange for

¹ Having studied various options and taking into account the lead-time required for following through such options, we have decided to focus our efforts on pursuing a contingency measure that would enable the continued supply of live poultry from local farms in the event that the wholesale market is closed due to the detection of AI virus in imported poultry. Under the proposed measure, we would continue, after the import of live poultry from the Mainland has resumed, the existing practice of allowing the delivery of imported live poultry to the wholesale poultry market while testing results are pending. In the event of an AI incident which leads to the closure of the wholesale poultry market, local chickens intended for sale could be delivered to the retail outlets via a check point in Ta Kwu Ling during the closure period.

the import and delivery of these live poultry to the wholesale poultry market direct for onward sale to retailers after sorting. Most of these wholesalers have difficulties in changing their long established mode of business operation at short notice. Some of them are locked into long-term trading commitment forbidding them from wholesaling local chickens. Even if these wholesalers are prepared to try switching to the trading of local chickens, there are inherent difficulties for them to secure sufficient supply at competitive terms because of the lack of established business ties with local farmers.

8. Six of the wholesalers are engaged in trading imported live poultry as well as local chickens. For three of these wholesalers, imported poultry account for more than 50% of their normal business volume. According to our assessment, their daily throughput during the four-month suspension period has dropped by 58% - 66% at of 8 May relative to their usual trading volume. Insofar as switching to the trading of local chickens is concerned, they face similar (though perhaps lesser) difficulties as in the case of those wholesalers who trade solely in imported live poultry.

9. During the four-month suspension of business, the wholesalers mentioned in paragraphs 7 and 8 above need to continue paying wages to their workers in order to retain them until the resumption of live poultry imports from the Mainland. To alleviate their financial hardship, we will provide a lump-sum EGP of \$110,000 to the 11 wholesalers who solely traded imported live poultry, and \$55,000 to the three wholesalers who derived more than 50% of their business from trading imported live poultry (in terms of number) in the three-month period immediately before 27 January 2014.

Cross-boundary transporters

10. Live poultry originating from registered poultry farms in the Mainland are delivered in sealed poultry trucks direct from the farms through the Man Kam To Animal Inspection Station to the wholesale poultry market at Cheung Sha Wan. The operators of these trucks need to maintain a dedicated truck to the satisfaction of Mainland import/export and quarantine authorities for the purpose, and bear all the relevant road charges and tax. As these trucks cannot normally be used for other purposes, the trucks are left idle during the four-month suspension period.

11. Similar to the wholesalers, these transport operators need to continue paying their workers and related charges to stay in the business until the resumption of import. We will provide a lump-sum EGP of \$75,000 to each of these eight transport operators to alleviate their financial hardship.

12. As regards the other local transport operators who deliver chickens from local farms to the wholesale poultry market or from the wholesale poultry market to the retail outlets, they largely stayed active in the live chicken supply chain during the four-month suspension period as the supply of local live chickens is undisturbed. While those delivering live chickens from the wholesale poultry market to the supply chain downstream might be affected by the smaller transaction volume in live chickens had Mainland imports not been suspended², there exists room for the operators of these vehicles to switch to businesses other than the delivery of live chickens.

Retailers

13. Of the 132 licensed fresh provision shops (FPS) and market stalls selling live poultry, one sells solely live pigeon and could not switch its business to selling local live chickens unlike the other 131 retail outlets. Local farms do not breed pigeons. The FPS in question had been closed for business in the first six weeks during the four-month suspension period. The FPS resumed business on 2 April 2014, selling chilled pigeons imported from the Mainland. We will provide this FPS with a lump-sum EGP of \$105,000.

14. As regards the other 131 live poultry retailers, they largely managed to stay in business since resumption of live poultry trade at the wholesale poultry market on 19 February according to our observations. Whilst the volume of live poultry transacted during the first 3 months of the four-month suspension may have been smaller than would otherwise be the case (had Mainland imports not been suspended), the fact that the majority of these outlets are also permitted to sell chilled poultry³ has apparently provided some room to cushion off the financial hardship that may have been caused by the non-availability of live poultry imports from the Mainland.

15. Having assessed the situation across the board, we consider that the case for granting EGP to the retailers (with the exception of the pigeon stall operator referred to above) is not as strong as that applicable to the wholesalers and transporters whose businesses are solely reliant on the trading of live poultry imports from the Mainland.

² In the first six weeks immediately following the resumption of live poultry trade at the wholesale poultry market, the daily volume of live poultry supplied by local farms averaged at 17 200 (relative to the daily average of 10 600 local chickens in 2013). This was mainly so as local farmers sought to sell off the significant number of live chickens that had accumulated in their farms because of the 21-day suspension during the Lunar New Year. As and when the stock of over-aged chickens in local farms was gradually depleted over time, the supply of live poultry from local farms dropped to 9 300 per day on average in April until the first week of May when the supply of chickens that are 60 to 80 days old (i.e. day-old chicks during the 21-day suspension) began to catch up.

³ In the three months ending 8 May 2014, the supply of chilled poultry (at a daily average of around 124 000) remained stable.

Remarks

16. The EGP package on this occasion, as in the case of the EGP payments offered in the past, has been formulated primarily on a case by case basis and should not be taken as binding precedent.

17. In assessing the impact on wholesalers, transporters and retailers who may be affected by the suspension of live poultry imports from the Mainland since 19 February 2014, we have carefully examined whether, during the four-month suspension period, there are special circumstances (such as those prevailing during the Lunar New Year peak) that would exacerbate their financial hardship. The demand for live poultry would normally drop after the Lunar New Year peak and stay put until the Tuen Ng Festival. Past experience also suggests that consumer demand for live poultry would tend to be dampened when AI infection cases were reported in the media, with the effect being dependent on how imminent and serious the public health threats to Hong Kong are perceived to be. These have been taken into account when the EGP package was formulated.

ADDITIONAL RELIEF MEASURES

18. Since the wholesalers referred to in paragraphs 7 and 8 above operate their business in the stalls in the wholesale poultry market, we will offer them corresponding rental waiver for the four-month suspension period (i.e. four-month rental waiver for wholesalers who trade solely imported live poultry and two-month rental waiver for wholesalers who derive more than 50% of their business from trading import live poultry). This does not apply to cross-boundary transport operators as they do not rent any stall or vehicle parking space in the wholesale poultry market. Nor does it apply to the FPS referred to in paragraph 13 above either as it is situated on non-government owned premises,

SUMMARY OF THE PACKAGE

19. The following is a summary of the financial assistance available to various groups of operators trading live poultry from the Mainland –

Parties affected	Ex-gratia Payments and Other Relief Measures
Import wholesalers	<p>a. Wholesalers who traded solely imported live poultry before 27 January 2014</p> <ul style="list-style-type: none"> - Waiver of four-month rental for market stalls in wholesale market; and - Lump-sum EGP of \$110,000. <p>b. Wholesalers who derived more than 50% of their business from trading imported live poultry (in terms of number) before 27 January 2014</p> <ul style="list-style-type: none"> - Waiver of two-month rental for market stalls in wholesale market; and - Lump-sum EGP of \$55,000.
Cross-boundary transport operators	- Lump-sum EGP of \$75,000.
The fresh provision shop which sells pigeons only	- Lump-sum EGP of \$105,000.

MECHANISM TO ENSURE EMPLOYERS DISCHARGE THEIR RESPONSIBILITIES

20. We are also aware that workers, apart from the operators, in the trade may also be affected in one way or another. As a matter of principle, the Government considers that it is the responsibility of an employer to meet his obligations to his workers. Furthermore, the employer has a legal responsibility to pay workers still in his employment or to pay any laid off employees the wages and other benefits provided for under the Employment Ordinance and the employment contract. The Comprehensive Social Security Assistance Scheme provides a further safety net. We expect employers in the live poultry trade to discharge their responsibilities to their employees having regard to the EGPs made available under the current arrangement.

21. As with the previous arrangements, the role of the Government is to encourage employers to fulfil their obligations to their employees without interfering in any employer-employee relationship. Thus, we will retain 20% of the EGPs until the employers have discharged their

responsibilities towards the employees. The retained portion of the EGPs would be paid to the wholesalers, transport operators and retailer concerned if they satisfy either of the following conditions –

- (a) no labour claim associated with this arrangement has been lodged with the Labour Department by their employees within 30 days after the announcement of the grant of the EGP ; or
- (b) in case there is a labour claim lodged within the period mentioned in (a) above –
 - (i) the worker does not pursue the claim further within 30 days after lodging the claim; or
 - (ii) the claim has been resolved.

FINANCIAL IMPLICATIONS

22. The total amount required for paying EGPs to the affected wholesalers, transport operators and retailer under the current package is estimated to be about \$2.3 million, broken down as follows –

Items	\$'000	\$'000
Lump-sum EGP		2,080
- Wholesalers		
a. solely trade imported poultry		
b. mainly trade imported poultry	1,210	
- Cross-boundary transport operators	165	
- The fresh provision shop which sells pigeons only	600	
	105	
Contingency (10%)	208	208
Total	-	2,288

The revenue loss to Government as a result of the rental waivers to the wholesalers is \$479,040 for the wholesale poultry market.

PUBLIC CONSULTATION

23. After the announcement of the four-month suspension, we met with representatives of the trade on various occasions. They requested compensation and EGPs and the prompt resumption of import of live poultry.

24. At the Panel meeting held on 11 March 2014, some Panel

Members were of the view that the Government should offer compensation or EGPs to relevant parties affected, as well as providing other appropriate support to them.

IMPLEMENTATION PLAN

25. We will provide the prescribed financial assistance to those affected immediately.

26. In the long run, we should consider on grounds of public health whether Hong Kong, being a place with scarce land resources and a densely populated city, should continue to allow the trading of live poultry (a practice that entails close contact between humans and live poultry). The Government is planning to engage a consultant later this year to study and make recommendation in this regard.

ADVICE SOUGHT

27. Members are invited to note the content of the paper.

Food and Health Bureau
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