



中華人民共和國香港特別行政區政府總部食物及衛生局  
Food and Health Bureau, Government Secretariat  
The Government of the Hong Kong Special Administrative Region  
The People's Republic of China

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(Translation)

Your ref.: CB2/PL/FE

7 May 2015

Hon CHEUNG Yu-yan, Tommy  
Chairman, Panel on Food Safety and Environmental Hygiene  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Hon CHEUNG,

**Review of the Public Health and Municipal Services Ordinance and  
the Demerit Points System for Licensed Food Premises**

Arising from the conviction and sentence recently handed down by the Court against a shop of the Maxim's Group under section 52 of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance), Dr Hon Helena WONG wrote to the Panel on Food Safety and Environmental Hygiene (the Panel) on 20 March 2015, seeking a written response from the Administration concerning a review of the penalty provisions in the Ordinance and the implementation of the Demerit Points System (DPS) against licensed

food premises. Having consulted the Food and Environmental Hygiene Department (FEHD), I am authorised to reply as follows.

2. In April 2014, a complaint was lodged against a shop of the Maxim's Group for selling a loaf of walnut and dried fruit bread with the presence of foreign substance. After investigation, FEHD prosecuted the Maxim's Group for contravening section 52 of the Ordinance. In handing down the sentence, the Magistrate stressed that a penalty of sufficient deterrence was called for in this case and accordingly imposed a fine of \$7,500.

3. Dr Hon Wong considered that the penalties under section 52 of the Ordinance lack deterrent effect. Hence, she requested the Government to review the relevant penalties as soon as possible. To this end, the Government indeed has plans to conduct a review of the food safety-related penalties under the Ordinance and its subsidiary legislation as well as the Food Safety Ordinance (Cap. 612) this year, with a view to assessing whether the deterrent effect of these penalties could meet today's need. Findings of the review will be reported to the Panel in due course.

4. I now turn to the Demerit Points System (DPS) which is an administrative regulatory system implemented by FEHD to deter operators of licensed food businesses from contravening provisions in the Ordinance and its subsidiary legislation that are related to food safety and environmental hygiene. Under the DPS, depending on the nature and severity of the offence, a pre-determined number of demerit points ranging from 5 to 15 will be registered against a licensee upon conviction of an offence in relation to food safety and hygiene-related provisions in the Ordinance and its subsidiary legislation. The prescribed demerit points for a particular offence will be doubled and trebled respectively if the same offence is committed for the second and the third time within a period of 12 months. A licence will be suspended for seven days if 15 points are accumulated within a period of 12 months (first suspension), and for 14 days if another 15 points are accumulated within 12 months from the date of the last offence that led to the first suspension (second suspension). If another 15 points are accumulated within 12 months from the date of the last offence that led to the second suspension,

the licence will be cancelled.

5. In the past five years, the number of food premises with licences suspended and cancelled due to the accumulation of demerit points under the DPS was 981 and 88 respectively. The details are given below:

<b>Year</b>	<b>Number of licences suspended</b>	<b>Number of licences cancelled</b>
2010	150	13
2011	145	12
2012	236	23
2013	242	29
2014	208	11
<b>Total</b>	<b>981</b>	<b>88</b>

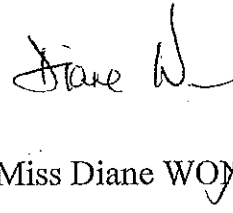
6. In accordance with the Risk-based Inspection System (RBIS) adopted by the FEHD, the frequencies of inspections to licensed food premises are determined by the risk potential of individual food premises. Food premises classified as low risk (Type I), medium risk (Type II) and high risk (Type III) will be inspected once every 20 weeks, 10 weeks and 4 weeks respectively. Under the RBIS, the frequency of inspection to individual food premises may be adjusted in the light of changes to risk potential, thereby providing an informed basis for prioritising the allocation of resources for the inspection of various licensed food premises. In conducting inspections to licensed food premises, FEHD officers will check the hygienic conditions of the food premises, covering such aspects as food, equipment, food handlers, conditions of the premises, pest control and waste disposal. Should any irregularities be detected, inspecting officers will issue warnings or initiate prosecutions where appropriate.

7. To facilitate the licensees in maintaining food safety and environmental hygiene in the licensed food premises, FEHD requires, on a mandatory basis, the appointment of qualified person(s) as full-time Hygiene Manager and/or Hygiene Supervisor to monitor the food safety and hygiene at

the premises.

8. FEHD will continue to take action in accordance with the DPS to suspend and cancel the licences of food premises found to be in breach of the law.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Diane Wong". The signature is written in a cursive style with a long, sweeping tail on the letter "g".

(Miss Diane WONG)  
for Secretary for Food and Health

c.c. Director of Food and Environmental Hygiene (Attn: Mr LI Ka-kei)