

立法會
Legislative Council

LC Paper No. CB(2)1220/15-16(08)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 12 April 2016**

Implementation of the Food Safety Ordinance

Purpose

This paper provides background information on the implementation of the Food Safety Ordinance ("FSO") (Cap. 612) and summarizes major views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the subject.

Background

2. FSO, which came into full operation on 1 February 2012, 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 scheme¹ for food importers and food distributors;
and
- (b) a requirement for food traders to maintain proper transaction

¹ The registration is effective for a period of three years, and is renewable for another three years each time. 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 to FSO are exempted from the registration requirement.

records² to enhance food traceability. The Director of Food and Environmental Hygiene ("DFEH") is empowered to inspect these records³.

3. FSO 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. As at 31 December 2014, a total of 15 037 food importers and food distributors were registered under FSO, including 8 103 food importers and 6 934 food distributors. The numbers of food importers and food distributors exempted from registration were 539 and 981 respectively.

4. CFS staff conduct regular inspections on food importers, distributors and retailers to ensure that they comply with the registration scheme and the requirement of keeping transaction records under FSO. CFS adopts a risk-based enforcement approach in conducting inspections of food premises. The priority and frequency of inspections are determined according to factors such as risk classifications and modes of operation of the food premises. Food businesses dealing in high-risk foodstuffs such as 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. In 2014, staff of CFS inspected 523 premises and instituted 10 prosecutions against food importers/distributors who had not registered under FSO. One prosecution was instituted against a trader for non-compliance with the record keeping requirements under FSO.

² The Code of Practice on Keeping Records Relating to Food ("the CoP") was gazetted on 15 July 2011, providing guidance on the actions that the trade should take for compliance with the record keeping requirement under Part 3 of FSO. According to the CoP, the records of each transaction must cover (a) date of the transaction; (b) name and contact details of the supplier; (c) place from which the food is imported; (d) name and contact details of the buyer; and (e) a description of the food, including the total quantity. Fishermen who capture local aquatic products and supply them in Hong Kong are required to maintain capture records covering the date or period of the capture and the name, total quantity and the area of the capture.

³ Under section 29 of FSO, DFEH may exempt a person from the record keeping requirement. In deciding whether to grant an exemption, DFEH may take into account all relevant factors including (a) whether the exemption would cause any undue threat to public health; (b) whether the applicant has mechanisms in place to ensure that the food he/she supplies is fit for human consumption; (c) whether there is genuine and practical difficulty in keeping the required records under Part 3 of FSO; (d) whether the food in question would be used for charitable purposes; and (e) the type and quantity of food in question.

Members' concerns

5. The Panel discussed the implementation of FSO at a number of meetings between 2012 and 2015. Members' major views and concerns are summarized below.

Requirements of record keeping and registration

6. Concern was raised about the difficulties encountered by small-scale retailers in satisfying the record keeping requirement. There were worries that stall operators in wet markets might not be able to keep their records of transaction systematically such that the sources of supplies might not be traced in case of food incident.

7. The Administration advised that food retailers (including restaurants) who only supplied food to ultimate consumers by retail were only required to keep acquisition records. As members of the public could usually identify the relevant retailer from whom the food was bought, CFS would then be able to trace the respective sources from which the food was supplied through the food acquisition records of the retailer. To enhance the traders' awareness of the registration and record keeping requirements, the Administration had launched publicity and education programmes after FSO had come into full operation.

8. Members were also concerned whether there was a specific time limit for the trade to submit the transaction records as required by DFEH. According to the Administration, while FSO had not specified a time limit for submission of transaction records, DFEH might, in requiring the relevant person to submit the required information, stipulate a reasonable time limit having regard to the urgency of individual cases. Following the sub-standard lard incident that occurred in Taiwan in early September 2014, CFS had reminded the trade to arrange their transaction records systematically to ensure that the relevant information could be submitted within the timeframe specified by DFEH as necessary. CFS had also reminded the trade that depending on the urgency of the matter, DFEH might require food traders to submit the records and information within a minimum of 24 hours.

CFS' effectiveness in addressing food incidents

9. In reply to members' enquiry as to whether CFS could handle food incidents more effectively after the implementation of FSO, the Administration advised that section 30(1) of FSO empowered DFEH to make a food safety order to prohibit the import and supply of any food for the period specified in the order, direct that any food supplied be recalled and specify the manner in which, and the period within which, the recall was to be conducted. In

response to the sub-standard lard incident in Taiwan in 2014, DFEH had issued three food safety orders under section 30(1) of FSO between September and November 2014 to prohibit the import into and supply within Hong Kong all concerned lard/lard products and edible fats and oils produced by the Taiwan manufacturers involved and all food products made in Taiwan or Hong Kong with such lard/lard products and edible fats and oils, and to mandate their systematic recall and proper disposal so as to ensure that they were no longer in circulation within the local market, thereby protecting public health. This incident had shown that the food tracing mechanism under FSO facilitated the identification and tracing of problem food and helped determine the extent of distribution of the food in Hong Kong. Moreover, FSO empowered DFEH to make regulations for tightening import control on specific food types based on risk assessment and order the mandatory recall of such food so as to ensure the protection of public health.

10. On the questions of how CFS could trace the source and movement of the food purchased through offshore shopping websites and whether CFS had required operators of offshore shopping websites to submit transaction records for inspection, the Administration advised that each case was determined on its own merits. If the website operator was an importer/distributor/retailer, he or she had to keep all food import and local acquisition records in accordance with FSO.

11. Responding to members' concern about follow-up actions taken by CFS when food incidents occurred in the neighbouring regions, the Administration advised that CFS regularly monitored the websites of overseas food safety agencies and the media reports on food safety issues. CFS would first ascertain whether the problem food products had entered into the local market based on the registration records under FSO and intelligence collected. Where necessary, DFEH would make orders to prohibit the import and supply of problem food and order the mandatory recall of such food to protect public health.

Inspection and law enforcement

12. Members were concerned about the priority of enforcement actions and the selection criteria for inspection. The Administration was urged to pay particular attention to high risk food, such as sashimi, sushi and raw oysters, sold in supermarkets.

13. According to the Administration, the priority and frequency of inspections were determined in accordance with a range of factors including risk classifications and modes of operation of the food premises. Accordingly, food businesses dealing in high-risk foods such as sashimi, sushi and oysters to

be eaten raw were the main focus of inspections. Small shops, shops selling traditional foods and food distribution websites were included in the inspections. Inspections were also made to premises that complaints for food incidents had been reported.

Recent development

14. The Administration will update members on the implementation of FSO at the Panel meeting on 12 April 2016.

Relevant papers

15. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
7 April 2016

Relevant papers on the Food Safety Ordinance

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	9.2.2010 (Item IV)	Agenda Minutes
	11.7.2012 (Item V)	Agenda Minutes
	11.3.2014 (Item VII)	Agenda Minutes Administration's follow-up paper on enforcement actions taken under the Food Safety Ordinance
	25.9.2014 (Item I)	Agenda Minutes
	12.5.2015 (Item V)	Agenda Minutes