

**For discussion  
on 9 May 2017**

## **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 (Cap. 612) (the Ordinance).

#### **Background**

2. 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 monitors whether the food on sale in the market complies with the legal requirements and whether it is fit for human consumption. When food samples are found not in compliance with food safety standards or when there is a food incident, CFS can obtain information on the source of the problem food and its distribution (paragraphs 8 to 9). 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.

## **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.), details of the contact person and information on the food business is required. The registration is valid 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 to 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 will, 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 2016, 20 495 food importers and food distributors were registered under the Ordinance, including 11 276 food importers and 9 219 food distributors. 734 food importers and 298 food distributors were exempted from registration.

## *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 Guide covers the procedures of registration and renewal as well as various types of application forms, etc. Also, the Guide 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 of the required information. CFS has consistently fulfilled this performance pledge. The Guide has been posted on the dedicated webpage on the Ordinance ([www.foodsafetyord.gov.hk](http://www.foodsafetyord.gov.hk)) for reference by the trade.

### **Requirement of Keeping Transaction Records by Food Traders**

8. The Ordinance also requires food traders to maintain records of the 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 operators from which the food was obtained and the business operators to which it was supplied. Importers, distributors and retailers are required to keep all of the 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 is 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 which retailer the food comes from. Having identified the food retailer in a food incident, CFS will be able to trace the respective distributor(s) or importer(s) from which the food is 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 on the Ordinance ([www.foodsafetyord.gov.hk](http://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 an imprisonment for up to six months. 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 an imprisonment for up to three months.

12. Every year, CFS staff 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 adopts a risk-based enforcement approach in planning and conducting inspections of food premises. 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 foci of inspections. Small shops, shops selling traditional food and food distribution websites are also included in the inspections.

13. In 2016, CFS staff inspected 576 premises and instituted 14 prosecutions against food importers/distributors who had not registered under the Ordinance. Among these 14 cases, 10 resulted in conviction, with fines ranging from \$500 to \$10,000. The remaining four cases are pending adjudication by the Court.

## **Handling of Food Incidents**

14. Since the implementation of the Ordinance, CFS can trace the source and movement of the problem food in the course of food surveillance and handling food incidents by virtue of the registration scheme and the records kept by food traders under the Ordinance. As such, CFS can handle food incidents more effectively. Under section 27 of the Ordinance, DFEH may, for the purpose of exercising powers or performing functions under the Ordinance, require to inspect, make a copy of or take an extract from a record kept by these food traders. Those who fail to keep such information or fail to submit the information to DFEH within the specified time commit an offence and are liable to a maximum fine of \$10,000 and an imprisonment for up to three months.

15. CFS has reminded the trade to manage their transaction records systematically to ensure that the relevant information can be submitted within the timeframe specified by DFEH as necessary. CFS has also reminded the trade that, depending on the urgency of the matter, DFEH may require food traders to submit the records and information within a minimum of 24 hours. In addition, CFS has liaised with the trade on enhancing the communication mechanism by requiring food importers and distributors to provide information of at least one contact person, a 24-hour contact telephone number and a mobile telephone number for getting in touch with the contact person(s) during office/non-office hours in case of emergency food incidents. This enables CFS to make immediate contact with the relevant traders when necessary to obtain the required information, in order to safeguard food safety.

## **Food Safety Orders**

16. Section 30(1) of the Ordinance empowers DFEH to make a Food Safety Order (the 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

is to be conducted. In making the Order under section 30(1), DFEH must ascertain that there are reasonable grounds to believe that the making of the Order is necessary to prevent or reduce a possibility of danger to public health or to mitigate any adverse consequence of a danger to public health, as stipulated by section 30(2) of the Ordinance. Any person who contravenes any of the provisions of the Order commits an offence and is liable to a maximum fine of \$100,000 and an imprisonment for up to 12 months.

### **Advice Sought**

17. Members are invited to note and comment on the implementation of the Ordinance.

**Food and Health Bureau  
Food and Environmental Hygiene Department  
Centre for Food Safety  
May 2017**