

For information

**Legislative Council Panel on Food Safety and Environmental
Hygiene**

**Enforcement Standards of Food and Environmental Hygiene
Department
Against Non-compliant Restaurants**

Purpose

This paper briefs Members on the Food and Environmental Hygiene Department (FEHD)'s regulatory regime for restaurants and the enforcement standards against non-compliance identified.

Background

2. The FEHD is the licensing authority of food premises (including restaurants) and has been exercising control through its licensing regime, inspections and enforcement actions in accordance to the Public Health and Municipal Services Ordinance (Cap. 132) and the Food Business Regulation (Cap. 132X). The objective is to ensure that licensees of food premises comply with the licensing conditions and the food safety and environmental hygiene provisions of Cap. 132 and its subsidiary legislation.

Risk-based Inspection System

3. Under the "Risk-based Inspection System" implemented by the FEHD since 2003, licensed food premises are classified into different types¹ and the inspection frequency for the individual food premises is

¹ The major factors of consideration for the classification of licensed food premises include the type of food sold and the intended mode of consumption by customers, the mode of operation of the food business, the method of food processing, the size of the customer base and the past records of the food premises.

determined by the potential risk level of individual food premises. Based on the concept of “Hazard Analysis and Critical Control Point”, this classification method aims at preventing food safety problems and striving for optimal deployment of human resources.

4. The FEHD reviews the potential risk level of individual licensed food premises annually to determine their inspection frequency in the following year. More frequent inspections will be conducted for individual licensed food premises which are held responsible for any food safety incident. Apart from regular inspections, the FEHD also conducts thematic inspections and takes enforcement actions when necessary.

5. During inspections, health inspectors will check the sanitary conditions of the food premises and the food safety management measures taken in respect of food, equipment, personal hygiene of food handlers, cleanliness of the premises, pest control and waste treatment, etc., with a view to ensuring that the licensed food premises observe the licensing conditions and comply with the hygiene and food safety standards required by law. For any irregularities found, inspection officers will issue warnings, institute prosecutions or order the food premises to suspend business and carry out thorough cleansing and disinfection. They will be allowed to resume business only when further inspection results are found to be satisfactory.

Demerit Points System (DPS)

6. Under the DPS, a pre-determined number of demerit points ranging from 5 to 15 (depending on the nature and severity of the offence) will be registered against a licensee upon prosecution and conviction of an offence in relation to food safety and environmental hygiene under Cap. 132 and its subsidiary legislation. The classification of offences reflects the nature and risk level of food safety or hygiene issues. Higher demerit points would be registered to offences which pose higher risks, while offences with lower risks would attract lower demerit points.

7. A licence will be suspended for seven days (first suspension) if 15 points are accumulated within a period of 12 months. The licence will

be suspended 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). The licence will be cancelled if another 15 points are accumulated within 12 months from the date of the last offence leading to the second suspension.

8. In 2020, the FEHD instituted 3 129 prosecutions against licensed food premises. The prosecution figures with breakdown by offences is in **Annex 1**. 77 licences were suspended and one licence was cancelled and the breakdown by licence type is in **Annex 2**.

Warning Letter System (WLS) against breaches of licensing conditions

9. The WLS is an administrative measure employed by the FEHD to deal with food premises in breach of licensing conditions. The arrangement are as follows:

- (a) upon detection of any breaches of licensing conditions by an FEHD officer, a verbal warning will be issued to the licensee requiring him/her to make rectification;
- (b) if the licensee has rectified the irregularity upon a follow-up inspection, the FEHD will issue a reminding letter in respect of the verbal warning to the licensee to remind him/her to avoid recurrence of the same irregularity within six months;
- (c) if the licensee fails to make rectification upon a follow-up inspection or the same irregularity recurs at the premises within a six-month period from the date of the verbal warning, the FEHD will issue a warning letter to the licensee which is valid for six months; and

(d) if the licensee is issued with three written warnings within six months and further breach(es) is/are detected, the FEHD will consider cancelling the licence.

10. In 2020, the FEHD issued 906 verbal warnings and 264 warning letters to licensed food premises breaching the licensing conditions.

11. Members are invited to note the content of this paper.

Food and Health Bureau
Food and Environmental Hygiene Department
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Annex 1

Prosecution against licensed food premises by the FEHD in 2020
(breakdown by types of offence)

	Offences	Legislation concerned	Number of prosecutions
1	Unclean premises/presence of rats or insects/presence of live birds or animals in food room	Section 5 of the Food Business Regulation (the Regulation)	20
2	Unclean equipment and utensils	Section 6 of the Regulation	45
3	Failing to protect food from contamination	Section 10 of the Regulation	33
4	Substandard fish tank water	Section 10A of the Regulation	0
5	Storage of open food	Section 11 of the Regulation	63
6	Using open space for preparation of food/washing or storage of utensils	Section 13 of the Regulation	80
7	Failing to keep food room clean /in good repair	Section 15 of the Regulation	87
8	Unclean toilet	Section 15A of the Regulation	1
Subtotal (premises with unsatisfactory hygienic conditions)			329
9	Alteration of premises or fittings	Section 34 of the Regulation	4
10	Alteration to the matters specified in the approved plan	Section 34D of the Regulation	82
Subtotal (premise with unauthorised alteration)			86
11	Sale of restricted food without permission	Section 30 of the Regulation	52
12	Operating another class of unlicensed food business	Section 31 of the Regulation	109

	Offences	Legislation concerned	Number of prosecutions
13	Unauthorised extension of food business outside the licensed area	Section 34C of the Regulation	278
14	Breaching other provisions of the Regulation, such as smoking in the food room		11
Subtotal (breaching of sale of restricted food without permission, operating another class of unlicensed food business, unauthorised extension of food business outside the licensed area or other provisions of the Regulation)			450
15	Obstruction of walkways	Section 4 of the Summary Offences Ordinance	1 222
16	Breaching other legislation, such as sale of food not of the substance, nature or quality demanded by the purchaser, and food containing non-permitted food additives, etc.		1 042
Subtotal (others)			2 264
Total			3 129

**Number of licensed food premises with
licences suspended/cancelled in 2020
(breakdown by types licence)**

Type of licence	Number of licences suspended	Number of licences cancelled
General Restaurant	27	1
Light Refreshment Restaurant	11	0
Food Factory	32	0
Fresh Provision Shop	4	0
Siu Mei and Lo Mei Shop	1	0
Factory Canteen	2	0
Total	77	1