

Consultation Paper
The Inspection and Categorization of
Food Establishments

Foreword

Food safety is an area which concerns everyone of us in the community. The Hong Kong SAR Government accords high priority in the work of food safety assurance.

Inspection of food establishments is a key element of our food safety and public health programme. We want to introduce changes, to make our inspection and regulation of food establishments more effective, transparent and friendly to the trade. We believe firmly that through the tripartite efforts and co-operation of the consumers, the trade and the Government, our food hygiene and safety standards could be raised and our public health assured. The proposals we put forward in this document are developed with this objective in mind and are designed to motivate and facilitate the contributions of all three parties. For us to succeed, each party must assume a due share of responsibility and be prepared to play its part.

Your feedback is vital in shaping our regulatory system for food establishments. We look forward to hearing your views.

CONTENTS

	Page
FOREWORD	
CONTENTS	
CHAPTER 1: INTRODUCTION.....	1
CHAPTER 2: PHILOSOPHY	4
A Tripartite Approach.....	4
Our Goals	5
CHAPTER 3: PRINCIPLES.....	7
CHAPTER 4: PROPOSALS FOR CHANGE.....	8
Refocusing the Existing Inspection System	8
Introducing Hygiene Manager and Hygiene Supervisor Requirements	10
Introducing a New Open Categorization Scheme	11
Improving the Demerit Points System	14
CHAPTER 5: SUMMARY OF PROPOSALS AND VIEWS SOUGHT.....	18
CHAPTER 6: WAY FORWARD	21
Annex A	22
Annex B.....	24
Annex C	25

Chapter 1 Introduction

1.1 In any community, regulation of food establishments¹ is an important component of its public health and food safety programme. This is particularly so for Hong Kong because –

- the hot, humid, crowded and polluted conditions we live in are susceptible to the occurrence of food contamination and other food-borne diseases;
- our residents consume a huge quantity of food products and have a strong habit of eating out; and
- the concept of food hygiene has yet to prevail as the most important consideration in our choice of eating establishments.

1.2 The Government's policy objective in this area is clear: we seek to safeguard public health by ensuring, inter alia, that the food supplied by food establishments is clean and fit for public consumption.

1.3 Within the Government, the responsibility for regulating food establishments is entrusted to the Food and Environmental Hygiene Department (FEHD) set up on 1 January 2000. Before 2000, the former Provisional Urban Council and Provisional Regional Council set the regulatory policies governing food establishments, and the former Urban Services Department and Regional Services Department implemented the policies accordingly.

1.4 In taking over the function of regulating food establishments,

¹ In Hong Kong, food establishments consist mainly of restaurants, food factories and fresh provision shops. They also include bakery, siu mei & lo mei shops, factory canteens, frozen confections factory, cold store and milk factory.

FEHD also inherited inevitably the regulatory system and mode of operation from the former municipal councils and municipal services departments. The regulatory system consists of three components, namely: licensing, inspection and enforcement. Under this system, all food establishments are required to obtain an appropriate licence from the Director of Food and Environmental Hygiene (DFEH), and thereafter are subject to regular and special inspections conducted by FEHD Health Inspectors as a means to ensure that all licensing requirements and conditions are complied with. A prominent feature of this system is that the programme of inspection is intense. In 1999, a total of 370 000 compliance inspections were carried out and each food establishment received an average of 22 inspections.

1.5 The current system is generally effective in safeguarding public health, as reflected in the relatively infrequent and low incidence of food-borne diseases occurring in food establishments. But there are deeper questions to be asked –

- do the hygiene conditions in our food establishments match our reputation as a gourmet paradise and a modern metropolis?
- is our community pleased with the cleanliness of our food establishments?
- is the system in the existing mode of operation welcomed by the trade? Has it helped to improve the hygiene conditions of our food establishments in any noticeable manner?
- to what extent does food hygiene and safety determine consumers' choice of the food establishment to patronize? Is there sufficient information for consumers to make an informed choice? and
- has the system helped to raise the hygiene and food safety awareness of the consumers and the trade?

1.6 Most if not all of the above questions are related to our food establishment inspection system. In the chapters to follow, we will set

out our philosophy and goals, discuss the principles we adopt to achieve our objectives and how the proposed changes may improve our existing system.

Chapter 2 Philosophy

A Tripartite Approach

2.1 We believe that it is the rightful duty of the Government to safeguard and maintain public health and food safety. But the Government cannot go it alone in this undertaking. A high standard of food hygiene in food establishments and the successful prevention of food-borne diseases rely on the tripartite co-operation of the consumers, the trade and the Government.

2.2 The Government has an irreplaceable role to play in –

- keeping abreast of world developments and setting a high standard of food safety;
- formulating policies that not only protect public health, but have also given due regard to the interests of the trade;
- establishing a fair, open and transparent framework of regulation;
- ensuring that the inspection system is effective and consistent, and the taking of law enforcement action is efficient and reasonable; and
- providing consumers with information on the hygiene standard of licensed food establishments.

2.3 As the food supplier, the trade has a pivotal role to play in ensuring that the food supplied is clean and fit for human consumption. The food industry should commit to –

- putting the safety of customers first and regarding this as a social responsibility ;
- familiarizing with the standards and requirements

stipulated in law and promulgated by the Government, and requiring strict observance by staff and fostering a strong sense of hygiene among them;

- studying and adopting the best hygiene practices of others in the trade;
- exercising constant care and vigilance in supervising the preparation, production, handling and serving of food; and
- constantly improving the hygiene standards of food establishments.

2.4 Consumers can also contribute significantly to the enhancement of food safety by exercising their consumer rights, such as –

- patronizing only licensed food establishments;
- giving due consideration to the hygiene conditions of food establishments in their choice of eating places or food suppliers;
- asserting their rights as consumers if the hygiene standard of the food establishment they patronize is found to be unsatisfactory or below standard; and
- reporting unlicensed or unhygienic food establishments to FEHD for the taking of enforcement action.

Our Goals

2.5 Inspection of food establishments is necessary and an inspection system should continue to be maintained. However, we do not see this as the most effective means to safeguard public health and food safety. For one thing, inspection resources are finite and there is a limit to our playing the role of a food police. Also, inspections can be seen as negative action since prosecutions usually take place during inspection visits. We believe that in the long term, our goal must be the promotion of self-regulation among the food trade. This is the highest and most effective form of regulation with free market competition offering an added means of achieving excellence in standards. If the

trade is committed to performing the roles outlined in para. 2.3 above, they will be able to offer the best safeguard to the health of our community.

2.6 We know that at the present stage of our development, we are still some way from attaining self-regulation. An all round food-safety culture and a stronger sense of social responsibility have yet to establish its roots among the food trade. Likewise, consumers have yet to be more concerned and aware of the importance of food safety to their health. Thus, the Government has to remain in the forefront to undertake the protection and prevention duties through a friendly and commonly understood system of inspection.

Chapter 3 Principles

3.1 In reviewing our inspection system and considering changes to it, we consider that the following are important guiding principles –

- a good inspection system should be fair, clear, transparent and should balance both the interests of the consumers and the trade and inspire their confidence;
- the system must be effective in achieving the overarching aim of safeguarding public health;
- the priorities of inspection should adequately reflect the potential risk of food establishments and represent the optimum use of inspection resources;
- the content of inspection should be in keeping with international best practices;
- the system should aim at the continued improvement of the hygiene conditions and food safety standards of food establishments;
- the system should help to enhance public awareness of food safety, and foster a hygiene culture among the consumers and the food trade; and
- the community has a right to know the hygiene standard of individual food establishments. We have a duty to meet this information need, so as to facilitate consumers in making an informed choice.

Chapter 4 Proposals for Change

4.1 To better protect public health, we propose to adopt the following four-prong approach –

- refocusing the existing inspection system to enhance its effectiveness;
- introducing Hygiene Manager and Hygiene Supervisor requirements to strengthen food safety supervision in food establishments;
- introducing a new Open Categorization Scheme to provide better information on the hygiene standard of food establishments; and
- improving the Demerit Points System to provide greater incentives for food establishments to improve their hygiene conditions.

Refocusing the Existing Inspection System

4.2 Currently, inspections focus primarily on the sanitation of food premises and take about 25 minutes to complete. Health Inspectors of FEHD check the cleanliness of the food room, toilet, ventilating system, food storage, etc of the premises. Depending on the hygiene conditions recorded in the previous 12 months, food establishments are classified into Grades “A”, “B” and “C” and subject to different frequencies of inspection. “A”, “B” and “C” grade establishments are inspected once every 8 weeks, 3-4 weeks and weekly/fortnightly respectively.

4.3 The shortcomings of the existing arrangement are that it does not take sufficient account of all the crucial risk factors and little time is allowed for health education.

4.4 We propose that, in future, inspections should be more comprehensive and thorough. In addition to premises sanitation checks, food safety checks will be conducted on food temperature, food protection, food storage, food handling and the personal hygiene of food handlers; health education will be given at the end of each inspection. The time for each inspection will be extended to 45 – 60 minutes.

4.5 To enhance the fairness and transparency of the inspection system, we further propose to introduce a scoring system, so that food operators understand in quantifiable terms the hygiene conditions of their establishments. Under this system, each inspection item will be allocated 1, 3, 5 or 10 points, depending on the importance of the item in hygiene and food safety terms. Due to the difference in some of the facilities, the inspection items - and hence the maximum scores - would vary for different types of food establishments. However, the maximum scores will be in excess of 100 points for all. The final score will be derived by dividing the point scored by the maximum score of that type of food establishment, and expressed on a 100-point scale. (For example, if the maximum score for a particular type of food establishment is 230, and the point scored is 184, the final score will be $\frac{184}{230} \times 100 = 80$) The final score will be recorded in an inspection form of which the food operator will be given a copy. Since the scoring system will directly affect the trade, we will discuss with them the fine details of the proposal, with a view to getting their support and co-operation.

4.6 Furthermore, instead of classifying food establishments and setting inspection priorities according to their compliance record, we propose to categorize food establishments into three risk groups, namely: “high”, “medium” and “low”. In making the classification, account will be taken of all the crucial risk factors like : whether the food to be consumed is high or low risk or is ready to eat or not; whether high risk or low risk food is handled in the production process; whether pathogen reduction step is taken in processing the food; the number of customers to be served; past track record (including any involvement in food poisoning cases) and availability of food safety programmes. This “risk-based”

approach is built on the concept of Hazard Analysis Critical Control Point (HACCP)² which is popularly adopted worldwide in ensuring food safety. Under the proposed categorization system, “high”, “medium” and “low” risk establishments will be inspected at intervals of 4 weeks, 8 weeks and 12 weeks respectively.

Introducing Hygiene Manager and Hygiene Supervisor Requirements

4.7 Continuous supervision by competent persons at all stages of the production, processing and preparation of food is an effective means to prevent food-borne diseases. Following the outbreak of cholera in 1997, all food businesses are now required to be supervised by a person who has attended a short course in basic hygiene. In November 1999, a voluntary Hygiene Manager (HM) Scheme was launched in food factories supplying lunch boxes to schools. A HM is a managerial staff who has completed a formal course of training and obtained a certificate of competence in food hygiene issued by an approved academic institution or vocational training centre.

4.8 We have reviewed the operation of the HM Scheme and concluded that it has worked well in: ensuring compliance with licence conditions; identifying key areas of risk for early remedial actions; supervising staff in observing safe food handling practices; advising staff on measures to improve food safety and hygiene; providing in-house training for staff; and handling food hygiene complaints or enquiries from customers.

4.9 To strengthen food safety supervision in food establishments, we propose that as a condition for granting or renewing a licence –

² HACCP is a science-based, systematic programme to identify specific hazards and devise measures to ensure safety of food. It has been proved useful in controlling and avoiding various hazards posed to food intended for human consumption. It concerns about prevention rather than end-product testing and inspection.

- all large food establishments and food establishments producing or selling high-risk food be required to appoint a HM;
- all large food establishments and food establishments producing or selling high-risk food be required to appoint a Hygiene Supervisor (HS) to help deputize the HM; and
- all other food establishments be required to appoint a HS.

4.10 A HS should occupy a supervisory position in the food establishment. He needs to attend a special training course of 4-6 hours run by FEHD. For the purpose of the HM and HS Schemes, large food establishments and food establishments producing or selling high-risk food include: general restaurants or factory canteens with over 100 seats; restaurants or food factories preparing or selling sushi and sashimi (irrespective of size or seating capacity); food factories for meat roasting and/or preparation of siu mei and lo mei; food factories for mass production of food or beverage, bakeries producing for wholesale; milk factories; and frozen confection factories (excluding those which manufacture from pre-prepared mixtures and dispensing machines, and for retail sale). All other food establishments refer to: general restaurants or factory canteens with less than 100 seats; light refreshment restaurants; fast food shops; food factories producing low-risk food; bakeries producing for retail sale; fresh provision shops; cold stores and frozen confection factories (those which manufacture from pre-prepared mixtures and dispensing machines, and for direct retail sale). The main duties of a HM and HS are given in Annex A.

Introducing a New Open Categorization Scheme

4.11 In November 1999, the two former provisional municipal councils launched an Open Categorization Scheme or “5-star” grading scheme, covering restaurants and food factories supplying lunch boxes to schools. Grading was based on the results of inspections carried out from June to September 1999. A total of 12 aspects were covered in each inspection. One demerit point was given for each irregularity found. Food establishments with an average of not more than two

irregularities were graded “5-star” and awarded an “Excellence in Hygiene” certificate valid for one year ending 30 October 2000. In the event, some 53% of restaurants and 48% of food factories were graded as “5-star”. There was a general feeling in the community that the “5-star” gradings were too generously handed out. Indeed, 129 of these food establishments had their “5-star” grading subsequently withdrawn due to breaches of licence requirements and association with food poisoning cases. In November 2000, FEHD announced the discontinuation of the “5-star” grading scheme.

4.12 In considering whether a replacement scheme should be introduced, we are conscious that there is as yet no consensus between the trade and the consumers. The food trade was critical of the now defunct “5-star” grading scheme. It argued that any grading awarded was time-related and did not truly reflect the general hygiene standard of the food establishments. However, the publishing of unfavourable gradings could seriously affect their businesses. Members of the trade also argued that as long as food establishments complied with licensing and hygiene requirements, how much better they are in hygiene terms should not be the concern of the regulatory authority. On the other hand, we are also very conscious that the consumers have the right to know the hygiene and food safety standards of food establishments, because of the possible bearing on their health. On balance, we consider that the consumers’ right to information should prevail. Provided that the grading is properly done on a sound basis, it is fair play to all and food operators should not be afraid of subjecting their establishments to the scrutiny.

4.13 Having regard to the consumers’ right to information and the concerns of the trade, we propose to introduce a new Open Categorization Scheme which is based on the results of regular and special inspections conducted by our Health Inspectors. However, we must stress from the outset that the new Open Categorization Scheme is neither intended nor designed for assessing the value for money or qualities of individual food establishments in terms of decor and service. Our new scheme concerns solely with the food hygiene and safety aspects of the food establishments

inspected. We believe we should leave the consumers to decide which food establishments are better value than others, taking into consideration factors like price, food quality, service, ambience and others which may find particular favour by an individual or a group.

4.14 In proposing the introduction of a new Open Categorization Scheme, we suggest that the following options be considered –

(a) Option I

To publish the average scores of a food establishment attained over a fixed period of time, say six months. To give recognition to those having attained excellent hygiene standards (e.g. over 90 points) or having implemented an effective food safety assurance programme such as HACCP and ISO, an “Honour” in the form of a “Certificate of Recognition” will be awarded to the licensees. The scores would be given in printed form to the food establishments concerned for display at conspicuous spots in their premises. The scores would also be made available on FEHD’s website for public reference.

(b) Option II

To give a grading according to the average score a food establishment has achieved in the past 6 months, but without the award of any “Honour”. The gradings proposed are: “Very Good” (for scores over 90), “Good” (75 - 89), “Satisfactory” (60 – 74) and “Ungraded” (Under 60). Again, the grading would be given to the food establishments in printed form for display, and made available for public reference on FEHD’s website.

4.15 In either option, whenever a prosecution is taken against a

food establishment, 10 points will be deducted from the overall average score which has been given over the relevant period. The deduction will lower the score in Option I or the grading in Option II. If the food safety and hygiene condition of a food establishment drastically deteriorates, due to its selling of prohibited food, becoming a source of infectious disease, being involved in a massive food poisoning outbreak, etc, FEHD will conduct a re-assessment of its hygiene condition and publicize the new score or grading within one month. All newly licensed food establishments will be indicated as "newly licensed" on the relevant form and FEHD's website until an assessment is made after six months.

4.16 A licensee may apply to FEHD for a re-assessment if he has conducted extensive renovation or upgrading to the premises, or he is not satisfied with any score or grading given, or if the business has changed hands.

Improving the Demerit Points System

4.17 We have said in para. 3.1 that a good inspection system should balance both the interests of the consumers and the trade and inspire their confidence. The proposals outlined so far in this chapter concerns mainly with the interest of the consumers. But we have not overlooked the interest of the trade. We consider that there is scope to improve the existing Demerit Points System (DPS) to make the regulatory regime more friendly to the trade, and at the same time motivate operators to improve the hygiene conditions of their food establishments.

4.18 The present DPS is a penalty system aimed at deterring food establishments from repeatedly violating hygiene and food safety regulations. Under the system, 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 the licensee on the conviction of an offence. 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 7 days if 15 points are accumulated within a period of 12 months (first suspension), and 14 days if another 15 points are accumulated within 12 months from the first suspension (second suspension). If this is repeated within 12 months from the second suspension, the licence will be cancelled.

4.19 The trade has criticised that the DPS is too harsh. The DPS is also said to be unfair because it does not discriminate between minor and serious offences. Furthermore, the DPS poses a serious threat to large manufacturing plants producing food and beverages for mass consumption, in that the conviction of minor offences occurring in one line of production may lead to suspension of the entire production plant and substantial financial loss.

4.20 In the light of these concerns, we have critically reviewed the functions of the DPS. We conclude that while the penalty system needs to be maintained to achieve deterrent effects, it should be reformed to take account of the varied nature of food establishments and their unique mode of operations.

4.21 To encourage licensees to improve the hygiene and safety standards in their licensed premises, we propose to offer them an option to have the accrued demerit points set aside if they agree to carry out the improvements we set out for them within a specified period. Improvements may include refurbishment of sub-standard facilities or a complete clean up.

4.22 The following are the offences which have accounted for most of the licence suspensions under the DPS -

- failure to store food in a proper manner;
- using open space for food preparation, scullery or storage purpose; and
- unauthorized extension of food business outside the licensed area.

To reduce the commission of these offences, we propose to put in place a bound-over arrangement whereby the violation of any of these offences during the bound-over period will trigger the demerit points and the corresponding penalty in para. 4.18 will be meted out. The bound-over period offered will commensurate with the number of demerit points that are held against the food establishment. In this regard, we consider a bound-over period of three months for every 15 points to be appropriate.

4.23 To forestall abuse of the arrangement proposed in para. 4.21, the option to have accrued demerit points set aside will only be offered to a licensed food establishment once a year. In addition, the arrangement will not apply to the serious offences listed in Annex B.

4.24 We propose to further improve the existing system by-

- linking the number of demerit points to the health and food safety risk posed by the particular violation;
- abolishing trebling of demerit points for repeated violations; and
- removing certain violations from the DPS as they are of little public health significance and have already been punished by the Court.

Details of these proposals are given in Annex C.

4.25 We can also see the trade's point that the DPS poses a serious threat to large food manufacturing plants producing for mass consumption. In respect of this category of food establishments, we propose to adopt a different regulatory regime. Under this regime -

- large manufacturing plants producing food for mass consumption, or any plants producing high risk food (irrespective of their size), may formulate a HACCP - based food safety plan for our approval as the basis for future regulation;
 - inspection of these establishments will be carried out by
-

- a FEHD multi-discipline team comprising Medical Officer, Scientific Officer and Health Inspector;
- irregularities that come to light during an inspection will be prosecuted, but demerit points will not be registered; and
 - if the hygiene condition of an establishment poses a serious health risk to consumers, FEHD may immediately suspend its operation as empowered by the Public Health and Municipal Services Ordinance, without relying on the DPS.

Chapter 5 Summary of Proposals and Views Sought

Summary of Proposals

5.1 Our proposals are summarized as follows -

Refocusing the Existing Inspection System

5.2 We propose -

- that in future, inspections should include food safety checks and health education in addition to sanitation checks, and the time for each inspection be extended from the current 25 minutes to 45 – 60 minutes (para. 4.4);
- to introduce a scoring system as the basis for inspection, so as to enhance its fairness and transparency (para. 4.5); and
- to adopt a risk-based approach and categorize food establishments into three risk groups, namely: “high”, “medium” and “low”. The respective inspection frequency to be set at 4 weeks, 8 weeks and 12 weeks (para. 4.6).

Introducing Hygiene Manager and Hygiene Supervisor Requirements

5.3 We propose –

- that all large food establishments and food establishments producing or selling high-risk food be required to appoint a Hygiene Manager and a Hygiene

- Supervisor as his deputy (para. 4.9); and
- that all other food establishments be required to appoint a Hygiene Supervisor (para. 4.9).

Introducing a New Open Categorization Scheme

5.4 We propose –

- to introduce a new Open Categorization Scheme based on the results of routine and special inspections conducted by FEHD, and award a score or grading (paras. 4.13 - 4.14).

Improving the Demerit Points System

5.5 We propose –

- to set aside accrued demerit points if licensees undertake to implement improvement measures to upgrade the hygiene conditions of their premises within a specified period (para. 4.21);
- to introduce a bound-over period during which the licensees concerned are not allowed to commit any of the three offences which have accounted for most of the licence suspensions under the DPS (para. 4.22);
- to forestall abuse, the option to have accrued demerit points set aside will only be offered to a licensed food establishment once a year (para. 4.23);
- to link the number of demerit points to the seriousness of the violation, to abolish the trebling of demerit points and to remove minor violations from the DPS (para. 4.24); and
- to exclude from the DPS large food manufacturing plants and plants producing high risk food, and subject them to another regulatory regime (para. 4.25)

Views Sought

5.6 We invite you and all members of the trade to let us have your views on the content of this consultation document, in particular the proposals set out in Chapter 4. Please send your comments by letter, facsimile or E-mail at the following address to –

Headquarters Division
Food and Environmental Hygiene Department
45/F, Queensway Government Offices
66 Queensway
Hong Kong
Facsimile: 2877 9507
E-mail Address: consultation@fehd.gov.hk
Enquiry Tel. No.: 2867 5912 or 2867 5632

5.7 We would be grateful if your comments could reach us before 30 April 2001.

Chapter 6 Way Forward

6.1 Your support and comments are crucial and will assist us in ensuring that the new inspection system and measures to be put in place are workable, effective and meet the aspirations of the community.

6.2 Following the end of the consultation period in end April 2001, we will analyze the views and comments received. We will conduct working sessions with the trade to discuss specific issues which are of direct concerns to them. We will take full account of the views expressed in finalizing our decisions on the food establishment inspection system and related measures, for progressive implementation beginning end 2001.

Annex A Main Duties of Hygiene Managers and Hygiene Supervisors

Duties of Hygiene Managers

- To identify key areas of risk in various food operations for early remedial actions
- To ensure compliance with the regulations, licensing conditions and codes of practice relating to food businesses
- To monitor the health condition of food handlers and to arrange medical examination or suspension of work where necessary
- To provide in-house training for the food handlers
- To supervise the work of the Hygiene Supervisor
- To handle complaints or enquiries from customers on food hygiene matters
- To act as a focal point of contact with the Food and Environmental Hygiene Department

Duties of Hygiene Supervisors

- To advise food handlers on the proper food handling practices and ensure their observance
- To conduct daily checks on the personal, environmental and food hygiene conditions of the food establishment and keep records on the findings
- To act as a focal point of contact with the Food and Environmental

Hygiene Department (Note: for food establishments not required to appoint a Hygiene Manager)

- To deputize the Hygiene Manager in his absence (Note: for food establishments required to appoint a Hygiene Manager)

Annex B Offences to Which the Setting Aside of Demerit Points Does Not Apply

The following are serious offences committed with intent, which pose high public health risks. The arrangement to set aside demerit points does not apply to them.

Public Health and Municipal Services Ordinance (Cap. 132)

1. Sale of food rendered injurious to health by adulteration (Section 50)
2. Sale of adulterated milk (Section 51)
3. Sale of meat adulterated with water or other fluid (Section 51A)
4. Sale of food unfit for human consumption (Section 54)
5. Sale of or interference with seized or detained food (Section 59(3))

Food Business Regulation

Sale of the following item of prohibited food (Section 29 and Schedule)

- (a) Chinese dishes of Yu Sang; and
- (b) Shell fish which have been collected in contravention of Section 28 of this Regulation.

Frozen Confections Regulation

Failing to comply with any direction given to stop the supply of frozen confections to the danger of public health (Section 38)

Milk Regulation

Failing to comply with any direction given to stop supply of milk to the danger of public health (Section 37)

Proposed Revision to the Schedule of Demerit Points

Annex C

Group A: Very Serious Offences

Penalty: 15 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
<u>PH & MS Ord. Cap 132</u>				
(1) Sale of food rendered injurious to health by adulteration (Section 50)	15	15	Yes	Violations with very serious food safety/health significance
(2) Sale of adulterated milk (Section 51)	15	15	Yes	- do -
(3) Sale of meat adulterated with water or other fluid (Section 51A)	15	15	Yes	- do -
(4) Sale of food unfit for human consumption (Section 54)	15	15	Yes	- do -
(5) Sale of or interference with seized or detained food (Section 59(3))	15	15	Yes	- do -
<u>Food Business Regulation</u>				
(1) Sale of the following item of prohibited food (Section 29 and Schedule 1)				
(a) Chinese dishes of Yu Sang (魚生);	15	15	Yes	- do -
(b) Shell fish which have been collected in contravention of section 28 of this Regulation; and	15	15	Yes	- do -
(c) Fresh or frozen meat of animals which have not been slaughtered in a Government Slaughterhouse or a slaughterhouse approved by the Director.	0	0	N/A	Cancellation of licence upon conviction
<u>Frozen Confections Regulation</u>				
(1)* Failing to comply with any direction given to stop supply of frozen confections to the danger of public health (Section 38)	15	15	Yes	- do -
<u>Milk Regulation</u>				
(1)* Failing to comply with any direction given to stop supply of milk to the danger of public health (Section 37)	15	15	Yes	- do -

* denotes items not applicable to fixed pitch hawker licences in respect of cooked food stalls.

Group B: Serious Offences

Annex C

Penalty: 10 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
<u>Food Business Regulation</u>				
(1) Employment of persons likely to spread disease (Section 24)	10	10	Yes	Violations with serious food safety / health significance
(2)* Unauthorised extension of food business outside the licensed area (Section 34C)	10	5	Yes	Offence of less gravity, for re-classification into Group C
<u>Frozen Confections Regulation</u>				
(1)* Employment of persons likely to spread disease (Section 35)	10	10	Yes	- do -
<u>Milk Regulation</u>				
(1)* Employment of persons likely to spread disease (Section 35)	10	10	Yes	- do -

Group C: Other Offences**Annex C****Penalty: 5 Points**

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
<u>Public Health and Municipal Services Ordinance, Cap. 132</u>				
(1) Sale of food not of the substance, nature or quality demanded by the purchaser (Section 52)	5	5	Yes	
(2) False labeling and advertisement of food (Section 61)	5	5	Yes	
(3) Failing to comply with any demand or requisition by an authorized public officer to take sample for analysis, bacteriological or other examinations (Section 62)	5	5	Yes	
(4) Regulation 3, 4, 5(1) or 5(3) of the Colouring Matter in Food Regulations	5	5	Yes	
(5) Regulation 3(1) or 3(2) of the Food Adulteration (Artificial Sweeteners) Regulations	5	5	Yes	-
(6) Regulation 3(1)(a), (b) or (c) of Food Adulteration (Metallic Contamination) Regulations	5	5	Yes	
(7) Regulation 5 of the Food and Drugs (Composition and Labelling) Regulations	5	5	Yes	
(8) Regulation 3 or 3A of the Harmful Substances in Food Regulations	5	5	Yes	
(9) Regulation 3 of the Mineral Oil in Food Regulations	5	5	Yes	
(10) Regulations 3, 4, 5 or 6 of the Preservatives in Food Regulations	5	5	Yes	

Group C: Other Offences

Annex C

Penalty: 5 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
<u>Food Business Regulations</u>				
(1) Failing to maintain premises clean (Section 5(1))	5	5	Yes	-
(2) Placing furniture/equipment as to obstruct cleaning (Section 5(2))	5	0	N/A	Trivial offence
(3) Knowingly suffering or permitting the presence of rats or insects on the premises and the presence of live birds or animals in food room (Section 5(3))	5	5	Yes	-
(4) Failing to heed warning to eliminate pests (Section 5(5))	5	5	Yes	-
(5) Failing to maintain equipment, utensils clean (Section 6)	5	5	Yes	-
(6) Giving out food for preparation on domestic premises (Section 7)	5	0	N/A	Very rare offence
(7) Storing non-permitted colouring matter for use in food on food premises (Section 7A)	5	0	N/A	Trivial offence
(8)* Using food room for dwelling purpose or using dwelling place as a food room (Section 8)	5	0	N/A	Trivial offence
(9) Failing to maintain spittle receptacles in the proper manner and to display no spitting notices (Section 9)	5	0	N/A	Trivial offence

Group C: Other Offences

Penalty: 5 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
(10) Failing to protect open food from risk of contamination (Section 10)	5	5	Yes	-
(11) Keeping live fish or shell fish in water of a quality below standard (Section 10A(1))	5	5	Yes	-
(12) Knowingly suffer or permit the presence of dog on food premises (Section 10B(2))	5	5	Yes	-
(13) Failing to store open food in proper manner (Section 11)	5	5	Yes	-
(14) Failing to transport open food in proper manner (Section 12)	5	5	Yes	-
(15) Transporting dressed poultry carcass or offal not in the approved type goods vehicle (Section 12A(1))	5	5	Yes	-
(16) Using open space for preparation of food/storage or washing of utensils (Section 13)	5	5	Yes	-
(17) Failing to keep bottled drinks in wet refrigerator or immersion cooler properly (Section 14)	5	0	N/A	Trivial offence
(18)* Failing to maintain food room clean/in good repair (Section 15)	5	5	Yes	-
(19)* Failing to maintain any sanitary fitment clean and in good repair (Section 15A)	5	5	Yes	-

Group C: Other Offences

Penalty: 5 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
(20)* Allowing the accumulation of refuse in food rooms (Section 16)	5	5	Yes	-
(21) Failing to render the surface of food preparation tables, etc. impervious (Section 17)	5	5	Yes	-
(22) Failing to sterilize/store eating utensils properly (Section 19)	5	5	Yes	-
(23) Failing to sterilize wet towels before serving to customers (Section 20)	5	5	Yes	-
(24) Employment of persons not properly immunized against certain diseases (Section 23A)	5	5	Yes	-
(25)* Selling horse flesh which has not been properly labelled (Section 27)	5	0	N/A	Trivial and very rare offence
(26) Sale of restricted food without permission (Section 30)	5	5	Yes	-
(27) Sale of live water bird and other live poultry in the same premises (Section 30A)	5	5	Yes	-
(28)* Operating other class of unlicensed food business on the premises (Section 31(1))	5	5	Yes	-

Group C: Other Offences

Annex C

Penalty: 5 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
(29)* (a) Unauthorized alteration(s) or addition(s) in respect of the premises to which the licence relates resulting in deviation from the plan approved under section 32 (Section 34(a));	5	5	Yes	-
(b) Unauthorized alteration(s) to matters as specified in the licensing conditions (Section 34(b));	5	5	Yes	-
(c) Unauthorized alteration(s) of any part of heating equipment or any change in the type of fuel used therein (Section 34(c));	5	5	Yes	-
(d) Unauthorized alteration(s) and addition(s) to the matters already specified in the plan approved under section 32 (Section 34D(1));	5	5	Yes	-
(e) Unauthorized addition of space(s) to be used for such purpose(s) as particularized in section 32 within the licensed premises but the said unauthorized addition of space(s) is not originally specified in the approved plan (Section 34D(2)(a); and	5	5	Yes	-
(f) Unauthorized addition of matter(s) of the kind as particularized in section 32 within the licensed premises but the said unauthorized addition of matter(s) is not originally specified in the approved plan (Section 34D(2)(b)).	5	5	Yes	-
(30)* Unauthorized extension of food business outside the licensed area (Section 34C).	10	5	Yes	Re-classified from Group B

Group C: Other Offences

Annex C

Penalty: 5 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
<u>Frozen Confections Regulation</u>				
(1) Sale of frozen confections without permission (Section 5)	5	5	Yes	-
(2) Sale of frozen confections which do not comply with bacteriological standard (Section 6)	5	5	Yes	-
(3) Sale of frozen confections obtained from unapproved source of manufacture (Section 7(1))	5	5	Yes	-
(4) Sale of frozen confections which have not been heat-treated (Section 8)	5	5	Yes	-
(5) Failing to take precautions against contamination of frozen confections pending sale (Section 9)	5	5	Yes	-
(6) Keeping frozen confections for sale at temperature exceeding -2°C (Section 10)	5	5	Yes	-
(7) Storing frozen confections with other articles in the same refrigerator (Section 11)	5	5	Yes	-
(8) Failing to keep refrigerators for the storage of frozen confections clean (Section 12)	5	5	Yes	-
(9) Failing to keep utensils clean (Section 13)	5	5	Yes	-

Group C: Other Offences**Penalty: 5 Points****Annex C**

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
(10) Failing to keep ice cream cones and wafers in dust proof containers (Section 14)	5	5	Yes	-
(11)* Effecting unauthorized alteration of premises (Section 20)	5	5	Yes	-
(12)* Failing to comply with requirements relating to heat-treatment apparatus (Section 21)	5	5	Yes	-
(13)* Using water from an unapproved source and non-permitted ingredients for the purpose of manufacturing frozen confections (Section 23)	5	5	Yes	-
(14)* Failing to maintain premises/equipment clean (Section 24)	5	5	Yes	-
(15)* Failing to sterilize vessels/utensils properly (Section 25)	5	5	Yes	-
(16)* Allowing frozen confections factory for dwelling purposes (Section 27)	5	0	N/A	Trivial offence
(17)* Failing to prevent contamination of frozen confections by contact with clothing (Section 28)	5	5	Yes	-
(18)* Failing to maintain spittle receptacles in proper manner and display no spitting notices (Section 29)	5	0	N/A	Trivial offence

Group C: Other Offences

Annex C

Penalty: 5 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
(19)* Failing to prevent vermin in a frozen confection factory (Section 30)	5	5	Yes	-
(20)* Using open space for manufacture or storage of frozen confections (Section 31)	5	5	Yes	-
(21)* Failing to cleanse water tanks (section 32)	5	5	Yes	-
(22)* Failing to take precautions against contamination of frozen confections during manufacture and distribution (Section 33)	5	5	Yes	-
(23)* Failing to mark containers of soft ice cream with the date and time of manufacture (Section 34)	5	5	Yes	-
(24)* Employment of persons not properly immunized against certain diseases (Section 36)	5	5	Yes	-

Group C: Other Offences**Penalty: 5 Points****Annex C**

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
<u>Milk Regulation</u>				
(1) Sale of milk without permission (Section 5)	5	5	Yes	-
(2) Sale of milk imported from unapproved source of manufacture (Section 5A)	5	5	Yes	-
(3) Sale of milk which does not comply with bacteriological standard (Section 6)	5	5	Yes	-
(4) Sale of milk which has not been properly heat-treated (Section 7)	5	5	Yes	-
(5) Sale of cream with added ingredient other than thickening substance (Section 8)	5	5	Yes	-
(6) Sale of milk in an unapproved type of containers (Section 9)	5	5	Yes	-
(7) Sale of beverages resembling milk in an unapproved container (Section 11)	5	5	Yes	-
(8) Failing to take precautions against contamination of milk pending sale (Section 12)	5	5	Yes	-

Group C: Other Offences

Annex C

Penalty: 5 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
(9) Keeping milk for sale at temperature exceeding 10° C (Section 13)	5	5	Yes	-
(10)* Failing to take precautions against contamination of milk in the course of transportation (Section 13A)	5	5	Yes	-
(11)* Effecting unauthorised alteration of premises (Section 17)	5	5	Yes	-
(12)* Distribution of contaminated or adulterated milk (Section 18)	5	5	Yes	-
(13)* Failing to comply with requirements relating to heat-treatment apparatus (Section 19)	5	5	Yes	-
(14)* Unauthorised heat-treatment of milk produced outside Hong Kong (Section 20)	5	5	Yes	-
(15)* Using ingredients from unapproved sources for re-constitution of milk (Section 21)	5	5	Yes	-
(16)* Processing milk from unlicensed dairies (Section 21A)	5	5	Yes	-
(17)* Failing to maintain premises/equipment clean (Section 22)	5	5	Yes	-
(18)* Using vessels/containers the material/design of which have not been approved (Section 23)	5	5	Yes	-

Group C: Other Offences

Penalty: 5 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
(19)* Failing to sterilize vessels/utensils properly (Section 24)	5	5	Yes	-
(20)* Allowing utensils used in the processing of milk to be used for drinking (Section 25)	5	5	Yes	-
(21)* Using milk factory for dwelling purposes (Section 27)	5	0	N/A	Very rave offence
(22)* Failing to prevent contamination of milk by contact with clothing (Section 28)	5	5	N/A	-
(23)* Failing to maintain spittle receptacles in proper manner and to display no spitting notices (Section 29)	5	0	N/A	Trivial offence
(24)* Failing to prevent vermin in a milk factory (Section 31)	5	5	Yes	-
(25)* Using open space for processing or for storage of milk (Section 32)	5	5	Yes	-
(26)* Failing to cleanse water tank (Section 33)	5	5	Yes	-
(27)* Failing to take precautions against contamination of milk during processing/ distribution (Section 34)	5	5	Yes	-
(28)* Employment of persons not properly immunized against certain diseases (Section 36)	5	5	Yes	-

Group C: Other Offences

Annex C

Penalty: 5 Points

<u>Offence</u>	<u>Existing Demerit Points</u>	<u>Proposed New Demerit Points</u>	<u>Doubling of Demerit Points</u>	<u>Remarks</u>
<u>Hawker Regulation</u>				
(1) Failing to maintain the fixed pitch and the adjacent area clean (Section 39(2))	5	5	Yes	-
(2) Failing to maintain equipment in safe and clean condition (Section 50)	5	5	Yes	-
(3) Failing to provide sufficient number of refuse bins and to use them properly (Section 51)	5	5	Yes	-
(4) Failing to ensure equipment to be provided by licensees dealing in drink or cooked food to be kept clean (Section 52)	5	5	Yes	-

Note: Other than the sale/possession of meat not derived from an approved slaughterhouse or other approved sources which will lead to cancellation of licence, contravention of provisions in the Public Health and Municipal Services Ordinance (Cap.132) and its subsidiary legislation relating to food hygiene and control of food premises and cooked food stalls will be given demerit points according to the above schedule.