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Food Safety Ordinance

Food Safety Ordinance (Cap. 612)

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Background

- The Food Safety Ordinance provides new food safety control measures, including -
  - a registration scheme for food importers and distributors;
  - a requirement for food traders to maintain proper transaction records to enhance food traceability;
  - power to make regulations for tightening import control on specific food types; and
  - power for the authorities to make orders to prohibit the import and supply of problem food and order the recall of such food

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Background

- The Food Safety Ordinance
  - came into operation on 1 August 2011
  - To allow sufficient time for traders to adapt to the new requirements, the penalty provisions for failing to register and the record-keeping requirements commence after a grace period of 6 months which ended on 31 January 2012.

Registration Scheme for Food Importers and Food Distributors

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Registration Scheme for Food Importers and Distributors

- Any person who carries on a food importation or distribution business is required to register with DFEH
  - "Food importer" means a person who carries on a business that brings or causes to be brought into Hong Kong food by air, land or water
  - "Food distributor" means a person who carries on a business the principal activity of which is the supply of food in Hong Kong by wholesale

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Registration Scheme for Food Importers and Distributors

- According to the Food Safety Ordinance, food traders whose principal activity is not food distribution are not required to register
- When defining “principal activity” and hence determining whether a trader is required to register as a food distributor, DFEH will take into account a range of factors such as the sales volume and value in relation to supply of food, the existence of credit facilities or contracts on wholesale supply of food
- Generally, retailers who sell their food to ultimate consumers but occasionally supply to other retailers or catering establishments are not required to register

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Registration Scheme for Food Importers and Distributors

- The registration scheme assists DFEH in identifying and contacting a more defined group of food traders speedily in a food incident
- Any person who, without reasonable excuse, carries on a food importation/ distribution business without registered as food importer/ food distributor commits an offence and is liable to a maximum fine of $50,000 and to imprisonment for 6 months

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Registration Scheme for Food Importers and Distributors

- The registration procedure is convenient and simple, requiring only the essential information, including:
  - the traders' particulars
  - contact details
  - the food type being imported or distributed
- The two-tier food categorisation system, i.e.:
  - Main food category, e.g. cereals and grains products
  - Food classification, e.g. pasta/ noodles – without the need to specify the type of noodles

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Registration Scheme for Food Importers and Distributors

- The completed application form can be submitted either in person, by mail or fax. Application can also be made online (https://www.fics.gov.hk).
- Application should be accompanied with a copy of Business Registration Certificate and/ or Hong Kong Identify Card for verification purpose

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Registration Scheme for Food Importers and Distributors

- Processing time of application for registration
  - FEHD will normally grant an approval within 7 working days upon receipt of all the required information

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Registration Scheme for Food Importers and Distributors

- The registration cycle for food importers and food distributors will be for a period of 3 years, subject to renewal. A registration fee will be charged on the basis of full-cost recovery. The fee level for registration and renewal of registration for a 3-year term is $195 and $180 respectively
- DFEH may refuse an application for renewal or revoke registration if the food importer/ distributor has repeatedly contravened the Food Safety Ordinance in the past 12 months

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Registration Scheme for Food Importers and Distributors

- Some food importers/ distributors have already registered or have obtained a licence under other Ordinances
- The Food Safety Ordinance exempts these food importers/ distributors from complying with the registration requirement as a trade facilitation measure. They include:
  - The holder of a permission or the licensee of a licence under section 30 of the Food Business Regulation (Cap. 132X)
  - The licensee of a licence under Part III of the Frozen Confections Regulation (Cap. 132AC)
  - The licensee of a licence under Part II of the Hawker Regulation (Cap. 132AI)
  - The licensee of a licence under Part III of the Milk Regulation (Cap. 132AQ)

Registration Scheme for Food Importers and Distributors

- The licensee of a licence under the Offensive Trades Regulation (Cap. 132AX)
- The licensee of a licence under Part II of the Slaughterhouses Regulation (Cap. 132BU)
- The registered stockholder of a reserved commodity under regulation 13 of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296A)
- The licensee of a licence under section 8 or the permittee of a permit under section 14 of the Marine Fish Culture Ordinance (Cap. 353)
- The certificated owner of a vessel licensed under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D) in respect of a Class III vessel

Registration Scheme for Food Importers and Distributors

- To ensure the data base of food importers and distributors covers exempted food traders as well, DFEH is empowered to obtain information about these licensees or registered persons under the relevant Ordinance from the licensing authority concerned
- Besides, DFEH may require an exempted food trader who carries on a food importation/ distribution business to provide supplementary information

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Registration Scheme for Food Importers and Distributors

- If there is any change in the information provided in the application for registration or renewal of registration, the registered food importer/ food distributor has to give written notice to DFEH within 30 days after the change occurs
- The notification form shall be submitted either in person/ by mail/ by fax. Notification can also be made online using the password provided upon registration (https://www.fics.gov.hk)
- FEHD's approval and charges is <u>not required</u> for updating of information

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Guide to the Registration Scheme

- In order to provide general information to assist traders in their application for registration as food importers and food distributors, and to answer some of the frequently asked questions, FEHD issued the "Guide to the Registration Scheme for Food Importers and Food Distributors"
- The Guide has been uploaded to the ordinance website for reference (www.foodsafetyord.gov.hk)

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Record-Keeping Requirement

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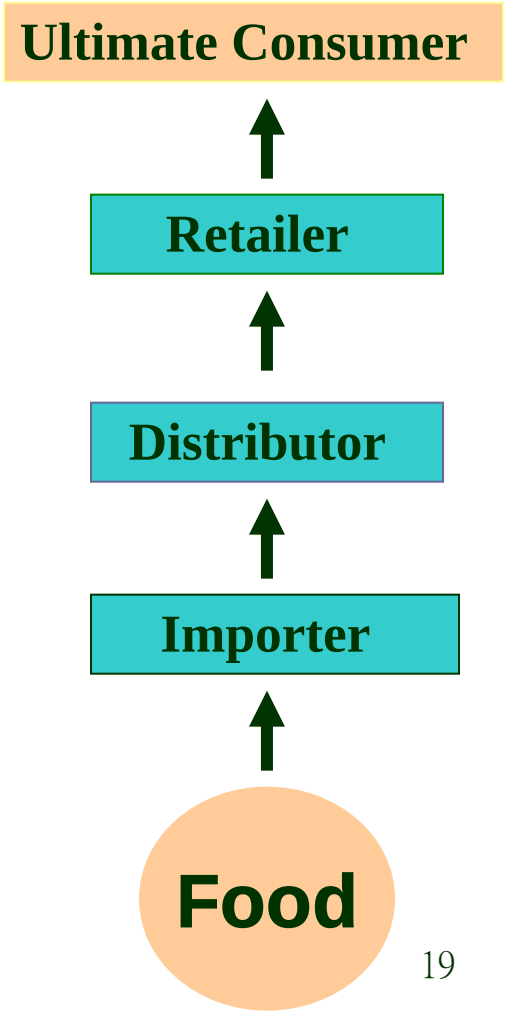
Record-Keeping Requirement

- The registration scheme alone will not guarantee food traceability in case of a food incident
- To trace where the problem food comes from and where it goes, food traders are also required to maintain records of movement of food (one-step-backward, one-step-forward)



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Record-Keeping Requirement

- Any person who, in the course of business, imports, acquires or supplies by wholesale food in Hong Kong is required to keep transaction records of the business from which the food was obtained and the business to which it was supplied
- DFEH is empowered to inspect the records maintained by food traders
- Record-keeping requirement not applicable to retail supplies to ultimate consumers

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Record-Keeping Requirement

- In general, food importers are required to keep import records and supply records, while food distributors are required to keep acquisition records and supply records
- Food retailers are only required to keep acquisition record. However, supply records are also required if the food acquired is supplied to another food retailer for resale purpose
- Catering establishments (e.g. restaurants, cooked food stalls) are required to keep acquisition records for raw food materials/ ingredients. Local food manufacturers are required to keep, other than the acquisition records for raw food materials/ ingredients, also the supply records

Record-Keeping Requirement

- Records should cover –
  - date of the transaction;
  - name and contact details of the supplier;
  - place from which the food was imported (for imported food only);
  - name and contact details of the person to whom the food is supplied (i.e. the buyer); and
  - description of the food, and total quantity

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Record-Keeping Requirement

- Any person who, without reasonable excuse, fails to keep records according to the requirements under the Food Safety Ordinance commits an offence and is liable to a maximum fine of $10,000 and to imprisonment for 3 months

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Record-Keeping Requirement

- There is no stipulated format for the records to be maintained, traders may choose, for example, one of the following means for compliance with the legal requirement:
  - keeping the receipts/ invoices;
  - create their own transaction records (both written records or electronic records are acceptable)
  - use the templates as provided by FEHD

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Record-Keeping Requirement

- The records should be kept for a period of
  - 3 months (for live aquatic products and food with a shelf-life of three months or less); or
  - 24 months (for food with a shelf-life over three months, e.g. canned food and dried seafood)

Acquisition Record

本地獲取食物的紀錄

RECORD OF LOCAL ACQUISITION OF FOOD

20 _____ 年 _____ 月份收貨紀錄表 (本地食物) Record of local acquisition of food for the month of _____ 20 _____					
公司名稱： Name of company					
收貨日期 Date of food acquired	食物名稱 Food description	數量 Quantity	供應商資料 Particulars of supplier		
			名稱 Name	聯絡電話 Contact tel. no.	地址 Address

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Import Record

獲取進口食物的紀錄

RECORD OF ACQUISITION OF IMPORTED FOOD

20 _____ 年 _____ 月份收貨紀錄表 (進口食物)

Record of acquisition of imported food for the month of _____ 20 _____

公司名稱：

Name of company

收貨日期 Date of food acquired	食物名稱 Food description	數量 Quantity	供應商資料 Particulars of supplier			食物出口國家／地方 Exporting country/ place
			名稱 Name	聯絡電話 Contact tel. no.	地址 Address	

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Code of Practice on Keeping Records

- A Code of Practice on record keeping period for different food types ("Code of Practice on Keeping Records Relating to Food") has been issued for traders' general reference
- The Code provides guidance on the actions that the trade should take for compliance with the record keeping requirements and general reference on the duration of keeping records for different types of food
- The Code has been uploaded to the ordinance website for reference (www.foodsafetyord.gov.hk)

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For enquiries，please email to us at fso_enquiry@fehd.gov.hk

or call us during office hour at

2156 3017/ 2156 3034

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Thank You

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