

# Report No. 46 of the Director of Audit — Chapter 2

## INSPECTION AND REGULATION OF FOOD PREMISES

### Summary

1. The Food and Environmental Hygiene Department (FEHD) is responsible for safeguarding public health through various activities. One of its major functions is the licensing and regulation of licensed food premises, including inspection of food premises. Under the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislations, all food premises in Hong Kong are required to be licensed to ensure that they comply with the requisite health, fire and building safety requirements before opening for business. As at 30 June 2005, there were 20,441 food business licences and 5,522 permits for sale of restricted foods. In 2004-05, the expenditure in respect of inspection of food premises and related activities was \$212 million, and the revenue from the issue of food business licences and permits for sale of restricted foods was \$166 million.

#### Inspection of food premises

2. *Frequencies of routine inspections.* In February 2003, the FEHD implemented a Risk-based Inspection System (RBIS) to allocate resources for the routine inspection of licensed food premises according to the assessed potential risks. Under the RBIS, Health Inspectors conduct sanitation checks and food safety checks, and provide hygiene education during each routine inspection. The time for each routine inspection was extended from 25 minutes to between 45 minutes and 60 minutes. Since 1 June 2005, the inspection frequencies for low-risk and medium-risk licensed food premises have been revised from once every 12 weeks and 8 weeks to once every 20 weeks and 10 weeks respectively. The inspection frequency for high-risk licensed food premises has remained unchanged (i.e. once every 4 weeks). Despite the increase in the number of licensed food premises (i.e. 15% from 17,634 in 2000 to 20,229 in 2004) and permitted food premises (i.e. 10% from 5,095 in 2000 to 5,584 in 2004), the number of routine inspections decreased by 44% from 437,127 in 2000 to 243,401 in 2004. The Audit Commission (Audit) has found that: (a) there are no FEHD guidelines on how Health Inspectors should provide the hygiene education during routine inspection; and (b) there were no records indicating that hygiene education was given during routine inspection. *Audit has recommended that the Director of Food and Environmental Hygiene should, in view of the implementation of the Hygiene Manager and Hygiene Supervisor Scheme (see para. 7) to improve the hygiene knowledge of food handlers: (a) critically review the effectiveness of providing hygiene education during routine inspection; and (b) review the time standards and frequencies of routine inspections so as to utilise FEHD staff resources more efficiently and effectively.*

3. **Routine inspection.** Audit analysed the actual routine inspection time of 53 randomly selected inspection packages in 2004 and 2005. Audit found that, in a majority of cases, the actual inspection time spent on each inspection package and the actual inspection time spent on each food premises were shorter than the FEHD specified time standards. *Audit has recommended that the Director of Food and Environmental Hygiene should critically and regularly review the routine inspection time standards for various types of food premises.*

4. **Accompanied routine inspection.** Audit observed the routine inspections (hereinafter referred to as accompanied routine inspection) of six inspection packages of licensed food premises in November and December 2005. Audit has found that: (a) breaches of licensing requirements and conditions had not been promptly followed up or properly recorded; (b) the actual time of most of the accompanied routine inspections was longer than that of the previous routine inspections; and (c) the total point-score of irregularities of the accompanied routine inspections in all districts (other than the Sham Shui Po District) was higher than the highest total point-score of irregularities of the previous routine inspections by 40% to 644%. *Audit has recommended that the Director of Food and Environmental Hygiene should ensure that the inspection standards adopted by individual Health Inspectors are consistent in all districts.*

5. **Licence fee.** Audit noted that there were cases of late payment or non-payment of licence fees. *Audit has recommended that the Director of Food and Environmental Hygiene should ensure that: (a) food business licences are issued only after the receipt of the licence fees in accordance with the Food Business Regulation; and (b) prompt follow-up action is taken to collect overdue food business licence and permit fees.*

6. **Food poisoning incidents.** Audit noted that the number of food premises related to food borne disease investigations had increased by 43% from 481 in 2000 to 686 in 2005. *Audit has recommended that the Director of Food and Environmental Hygiene should consider taking more stringent enforcement action against the licensed and permitted food premises, and the unlicensed food premises, in particular those involved in food poisoning incidents, for breaches of hygiene regulations and failure to meet hygiene standards.*

7. **Hygiene Manager and Hygiene Supervisor Scheme.** Since 30 May 2005, the FEHD has implemented a Hygiene Manager and Hygiene Supervisor Scheme to improve the food safety and handling knowledge of food handlers and strengthen the supervision of food preparation process in licensed food premises for the prevention of food borne diseases. Audit noted that as at 31 August 2005, 347 (1.7%) licensees had not complied with the requirements of appointing a hygiene manager and/or a hygiene supervisor. *Audit has recommended that the Director of Food and Environmental Hygiene should: (a) take more stringent action to ensure compliance with the new licensing requirements under the Hygiene Manager and Hygiene Supervisor Scheme; and (b) critically review the effectiveness of the Scheme and develop a monitoring mechanism.*

## **Regulation of licensed food premises**

8. ***Revamp of the Demerit Points System.*** The FEHD operates a Demerit Points System (DPS) to enhance the deterrent effect by suspending and cancelling the food business licence/permit when the licensee/permittee is convicted of food hygiene related offences. In August 2003, Team Clean made a number of recommendations to enhance the hygiene standards of all food premises, including the revamping of the DPS. The FEHD aimed at implementing the new DPS in mid-2004. In February 2004, the FEHD revised the draft proposal for the review of the number of demerit points accorded to individual offences. Audit noted that, up to the end of December 2005, the FEHD had not implemented the other recommendations of Team Clean to revamp the DPS, and the review was still in progress. *Audit has recommended that the Director of Food and Environmental Hygiene should expedite the revamping of the DPS for the licensed food premises so as to strengthen the sanction regime of licensed food premises.*

9. ***New warning system.*** In November 2003, the FEHD revamped its warning system. Under the new system, no licence was suspended as breaches of licensing requirements and conditions only led to cancellation of licence. Despite the increase in the number of food premises related to food borne disease investigations, the number of licences cancelled under the new system was about the same as that under the old system. *Audit has recommended that the Director of Food and Environmental Hygiene should critically review the effectiveness of the new warning system.*

10. ***Effectiveness of enforcement action.*** Despite an increase in the number of licensed food premises by 15% from 17,634 in 2000 to 20,229 in 2004, the number of prosecutions instituted and the number of licences suspended by the FEHD had decreased by 40% and 48% respectively. The number of licences cancelled remained at 2 to 3 a year. *Audit has recommended that the Director of Food and Environmental Hygiene should critically review the FEHD procedures of taking enforcement action against licensed food premises for breaches of hygiene regulations.*

## **Enforcement action against unlicensed food business activities**

11. ***Identification of unlicensed food premises.*** Audit noted that some district offices did not keep target lists of unlicensed food premises and the target lists produced for Audit scrutiny did not capture all the identified unlicensed food premises. *Audit has recommended that the Director of Food and Environmental Hygiene should ensure that target lists of unlicensed food premises are kept by all districts, and the target lists should contain all the unlicensed food premises identified by the FEHD.*

12. ***Inspection of unlicensed food premises.*** An unlicensed food premises could be removed from the target list of unlicensed food premises if it had ceased operation for three consecutive months and confirmatory checks had been conducted by senior officers. However, Audit noted that some food premises which had ceased operation for more than

six months were still on the target list of unlicensed food premises. *Audit has recommended that the Director of Food and Environmental Hygiene should ensure that confirmatory checks are conducted by senior officers within the specified periods on the unlicensed food premises so that those premises which have ceased operation are removed from the target list.*

13. ***Closure order and unlicensed food business.*** Audit noted that many operators of the unlicensed food premises had applied for full licences. To recoup the costly overheads of running food premises, there is a tendency for the operator to commence business before the issue of a licence and treat the fines imposed subsequent to FEHD prosecutions as part of the operating costs. However, the number of closure orders applied by the FEHD to close unlicensed food premises had decreased by 75% from 16 cases in 2003 to 4 cases in 2004. *Audit has recommended that the Director of Food and Environmental Hygiene should strengthen the control measures to deter the operation of unlicensed food premises.*

14. ***Clubs and private kitchens.*** Clubs in possession of certificates of compliance under the Clubs (Safety of Premises) Ordinance (Cap. 376) and serving food to their members and guests accompanied by members are exempted from the requirement of obtaining a restaurant licence. However, some clubs have used “instant membership” arrangements to enable them to operate as restaurants without meeting the restaurant licensing requirements and conditions. Some private kitchens are in fact unlicensed food premises as they possess neither a certificate of compliance nor a restaurant licence. *Audit has recommended that the Director of Food and Environmental Hygiene should take proactive action to deter the operation of food premises disguising as clubs but in fact operating as restaurants serving walk-in customers, and private kitchens that are unlicensed food premises.*

## **Management information**

15. ***Delay in the implementation of Licensing Management Information System.*** In October 2001, an FEHD feasibility study concluded that the implementation of the Licensing Management Information System (LMIS) for standardising and automating the handling of licensing and inspection of food premises would be divided into Phase 1, Phase 2 and Phase 3. The LMIS Phase 1 was implemented in January 2006. *Audit has recommended that the Director of Food and Environmental Hygiene should critically evaluate whether the expected benefits of the LMIS Phase 1 are realised before the implementation of the LMIS Phase 2 and Phase 3.*

## **Response from the Administration**

16. The Administration generally agrees with the audit recommendations.

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