

**CONTROLLING OFFICER'S REPLY**

**FHB(FE)141**

**(Question Serial No. 0780)**

Head: (49) Food and Environmental Hygiene Department

Subhead (No. & title): (-) Not specified

Programme: (2) Environmental Hygiene and Related Services

Controlling Officer: Director of Food and Environmental Hygiene (Miss Vivian LAU)

Director of Bureau: Secretary for Food and Health

Question:

Regarding the operation of unlicensed restaurants, please advise on the following:

- (a) the number of suspected unlicensed restaurants against which complaints were received from the public in the past 3 years (from 2015-16 to 2017-18);
- (b) the number of prosecutions instituted and convictions recorded in the past 3 years (from 2015-16 to 2017-18);
- (c) the manpower for the surveillance operations and the expenditure involved;
- (d) the procedures involved from taking enforcement action to instituting a prosecution, and the rectification period allowed;
- (e) the maximum and minimum fines and penalties imposed upon conviction;
- (f) given the common occurrence of restaurants operating without a licence, which suggests that there are loopholes in the existing prosecution process, or even that the fines imposed may not have the deterrent effect, when a review will be conducted in this respect; and
- (g) further to the previous question, whether the Department has taken any measures to step up enforcement against recalcitrant offenders operating unlicensed restaurant business; if yes, the effectiveness of such measures.

Asked by: Hon HO Chun-yin, Steven (Member Question No. (LegCo use): 23)

Reply:

- (a) In 2015, 2016 and 2017, the number of complaints against suspected illegal operation of food business including unlicensed restaurants are 2 199, 2 262 and 2 384 respectively.

(b)&(e) The information sought in respect of unlicensed restaurants is given in the table below –

	<b>2015</b>	<b>2016</b>	<b>2017</b>
No. of prosecutions	2 373	1 801	1 685
No. of convictions	2 263	1 301	1 308
Maximum fines*	\$63,800	\$58,500	\$69,000
Minimum fines	\$600	\$600	\$800

\* including daily fines

- (c) At present, the Food and Environmental Hygiene Department (the Department) deploys about 318 health inspectors to 19 district environmental hygiene offices across the territory to handle various environmental hygiene issues in the district, including, inter alia, inspecting and taking follow-up enforcement action against unlicensed restaurants in the district. We do not keep separate statistics on the manpower and expenditure involved in taking enforcement action against unlicensed restaurants.
- (d) Upon detection of suspected operation of unlicensed restaurants through routine inspection, or receipt of complaints from the public or media as well as referrals from other government departments, the Department will conduct inspection to the suspected food premises, advise the operator to apply for appropriate food business licences from the Department, and make application to the Court for summons against the operator of the unlicensed food premises under the Food Business Regulation (Cap. 132 sub. leg. X) with support of evidence collected. Upon receiving application, the Court will issue the summons to the defendant and fix a date for the hearing according to established procedures.
- (f) & (g) For recalcitrant offenders operating unlicensed restaurant business, the Department will provide the track record of the offenders for consideration by the court to mete out a heavier sentence for stronger deterrence. Besides, the Department will also step up enforcement efforts against unlicensed restaurant business which include enhancing frequency of inspection; taking arrest and seizure action; applying to Court for closure orders to close the unlicensed food premises, and publicising the information of the unlicensed food premises through the media and the Department's website when the closure orders are executed. The Department considers the aforesaid measures effective generally. The Department will keep under review the effectiveness of the regulatory and enforcement measures against the operation of food business without a licence in the light of changing circumstances.

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