

CONSULTATION ON DRAFT PROVISIONS IN THE FOOD SAFETY AND SECURITY BILL

SEGMENT A: PROVISIONS RELATED TO FOOD BUSINESSES

1 Key provisions related to food businesses (Part 4) as well as related cross-cutting topics span Part 7 (Food Safety & Sustainable Primary Production Measures), Part 8 (Offences relating to Food Safety) and Part 13 (Monitoring and Enforcement) of the FSSB are summarised below.

Definition of “unsafe” and “unsuitable” food

2 The Bill will largely retain the key concepts of “unsafe” and “unsuitable” food as found in the current Sale of Food Act (SOFA), with some extensions to better ensure food safety. The definition of “unsafe” will refer to food that is likely to cause physical harm to an individual who may consume it, and this is substantively unchanged from the definition in the SOFA. The definition of “unsuitable” will be extended beyond food that is damaged and deteriorated to cover food that (i) is outdated, defined to be unused or unconsumed by the period recommended by the manufacturer, or by the dates specified on the packaging, (ii) contains a food production substance (e.g., food additive) that has not been approved or if approved, is present above the allowable level, (iii) contains contaminants (e.g., heavy metals) that are prohibited or above allowable levels and (iv) food that contains inedible components (e.g., hair, nail clippings, rubber bands).

Concept of Supply

3 The Bill will introduce a concept of “supply” of food that goes beyond the “sale” of food. In other words, the Bill extends to situations where food is given away i.e. food donation and distributing donated food. The proposed powers are intended to help better safeguard the food safety of donated food, given that similar food safety risks exist for both donated and sold food, and thus better protect all members of our community. A business, undertaking or activity that is charitable or community in nature, or involves the handling of the sale or supply of food only on a single occasion, will also be considered a food business. However, not all food businesses need a licence from SFA to operate (refer to paras 5 to 7).

Expansion of Definition of Food Businesses

4 The Bill will also expand the definition of food businesses to cover businesses involved in primary production, i.e., farms¹, in addition to non-retail (e.g., food factories, slaughterhouses, meat cold stores) and retail businesses (e.g., restaurants, coffee shops, food stalls). This is to enable greater coherence and consistency in SFA’s regulatory treatment from farm-to-fork, by putting all food businesses, whether retail, non-retail, or primary production into a single regulatory framework.

¹ Ornamental plant nurseries / premises that cultivate whole edible plants in pots will not be considered licensable food businesses (e.g. farms).

Licensable Food Businesses

5 SFA adopts a science-based risk management approach to food safety. We calibrate regulatory requirements based on the food businesses' food safety risk profiles. Food businesses of higher risk profiles will be licensed by SFA. Accordingly, it will be an offence for any person to use or allow a premise to be used to carry on a licensable food business if the person does not hold a SFA food business licence.

6 The provisions to license such food businesses involved in the sale of food, which today are under various pieces of existing legislation, will be consolidated through the FSSB (refer to Table 1). The list of licensable food businesses will be prescribed in a Schedule. Food businesses involved only in giving away food without sale (i.e. food donations) will continue to not require a licence from SFA, as such activities are generally at a more moderate scale and of a lower food safety risk profile. The Minister for Sustainability and the Environment can expand the list of licensable food businesses in future, should there be a need to require these to be licensed to address the food safety concerns associated with their operations.

Table 1: Summary of Food Business Licences Issued by SFA

S/N	Food Business Licences	Current Act
1	Licence for Food Processing Establishment	<ul style="list-style-type: none"> • Sale of Food Act (SOFA)
2	Licence for Meat / Fish Processing Establishment and Cold Store for Meat / Fish	<ul style="list-style-type: none"> • Wholesome Meat and Fish Act (WMFA)
3	Licence to Operate a Slaughterhouse	<ul style="list-style-type: none"> • WMFA
4	Farm Licence	<ul style="list-style-type: none"> • Control of Plants Act (COPA) • Animals and Birds Act (ABA) • Fisheries Act (FA)
5	Retail food establishment licences (e.g., Food Shop, Food Stall (including Food Stalls within Temporary Fairs) ² , Supermarket and Private Market Licences)	<ul style="list-style-type: none"> • Environmental Public Health Act (EPHA)

7 The Bill will: (i) stipulate criteria SFA considers when deciding whether a licence should be granted; and (ii) enable SFA to impose and modify, after due process, licence conditions that licensees need to adhere to.

² Unlike Temporary Fair Food Stalls, Temporary Fairs will continue to be regulated under the Environmental Public Health Act, as the regulatory focus goes beyond food safety.

Farm Management Plan (FMP) and Food Control Plan (FoCP)

8 The Bill will introduce new provisions that will require farms to implement measures, such as food safety control measures, a biosecurity plan and monitoring plan for water quality for aquaculture, to mitigate the occurrence of food safety hazards and on-farm diseases and ensure sustainable local food production. Farms will have to submit the implementation details to SFA via a *Farm Management Plan*, during licence application or renewal. SFA will engage and inform relevant licensees before the provision is required.

9 Licensable non-farm food businesses (e.g., food caterers) will be required to formulate and implement a *Food Control Plan*. A *Food Control Plan* will be structured to cover pre-licensing requirements that are already applicable today during the SFA licence application process under three components: (i) details on the training of food workers; (ii) requirements on the design, maintenance, cleanliness, and pest control of their food premises; and (iii) the risk mitigation strategies to manage food safety risks identified in the food preparation or manufacturing processes. SFA will prescribe the components needed based on the specific operating modality of the prospective food business. For example, component (iii) will continue to be imposed on select higher-risk food businesses such as food caterers. No new requirements will be imposed at the point the new Act is operational.

10 FMP and FoCP are part of SFA's joint responsibility approach to place onus on licensees to put in place preventative measures to ensure food safety and sustainable primary production. Failure to do so will result in regulatory sanctions (see paras 16 to 18).

Food Safety and Sustainable Primary Production Measures

11 The Bill will include provisions to enable SFA to continue serving directions to food industry participants to require preventive or corrective action to be taken. Such directions can be issued when there are situations such as unsanitary food premises and equipment, or to deal with food safety hazards, or risks of contamination of food so as to control foodborne outbreaks and mitigate danger to public health. The Bill introduces a new set of directions to deal with biosecurity threats that undermine primary production of food. Directions can also be served to require the publishing of a public statement to protect the public. Tampering and non-compliance with the directions constitute offences.

Plans to Manage Disruptions

12 The Bill will include new provisions that allow SFA to require some licensable food businesses to have plans to manage disruptive events that can affect food safety or supply. These plans will support food businesses in achieving business continuity. SFA will engage affected licensees before implementing such requirements.

Restricted Activities for Non-licensable Food Businesses

13 The Bill will enable SFA to prescribe activities that non-licensable food businesses, such as home-based food businesses, must not undertake. For example, the sale of ready-to-eat raw fish which are of very high food safety concerns without proper handling and temperature control.

Food Workers

14 The Bill will have provisions to require food businesses to employ only trained food workers (previously known as “food handlers”) and have systems to ensure that food workers observe good food safety practices. In other words, food businesses will be required to track and ensure that their food workers attend and pass relevant food safety courses as well as applicable refresher courses upon expiry³ of their certifications prior to deployment. Food businesses can leverage the recently launched Food Handler Digital Data Hub to aid their efforts in doing so. These are not new requirements as existing legislation already provides for them. The exception is that the training requirement for food handlers will now extend to refresher training.

15 On their part, food workers will also need to continue observing appropriate personal hygiene. Under FSSB, there will be new provisions for food workers to be served directions (e.g., improve the method of handling of food) to directions and be liable for poor food handling practices.

Regulatory Action

16 The Bill will have provisions to enable SFA to take regulatory action, such as financial penalties, suspending or revoking licences, or requiring implementation of rectification measures, if non-compliances with licensing conditions are found.

17 This forms part of the new regulatory approach to better engender joint responsibility for food safety by moving away from the traditional approach of prescriptive, “one-size-fits-all” requirements and detection of point-in-time non-compliances towards one where preventative measures tailored to specific operational models and needs are devised by the food businesses themselves to be put in place upstream and operationalised consistently (elaborated in paras 8 to 10).

18 This will see SFA decriminalising non-compliances that are less egregious in nature, which allows SFA to strike a better balance between assuring food safety and reducing unnecessary compliance costs for less serious infringements by giving quicker closure to investigations and without resulting in criminal convictions that create an associated criminal record. For example, non-compliance with a condition of aquaculture farm licences is currently an offence that can result in criminal conviction regardless of severity. Under the Bill, proportionate regulatory action will instead be taken if the farm licence condition is breached.

Strengthening of Penalty Framework for Offences

19 Complementing the move to decriminalise less egregious breaches (para 18), the Bill will rationalise the penalties across existing Acts. Currently, the penalties for food safety offences are markedly different across different Acts even though the offences are similar in substance. This maximum penalty is also raised to be consistent with the existing penalties in the Wholesome Meat and Fish Act 1979, which is the highest among existing food legislation.

³ For example, the Food Safety Level 1 Course has a validity period of 5 years; Food Safety Level 1 Refresher Course has a validity period of 10 years.

This will ensure continued deterrent effect as Singapore's living standards has increased and considering the trend in sentencing by the courts.

20 Further, a two-tier offence system will be introduced, where the offences are divided generally into the "mental" and/or "physical" elements⁴. Offences committed "knowingly" will attract a higher punishment upon conviction, where the prosecution has to prove this mental element. "Strict liability" offences which attracts a lower punishment upon conviction is where the prosecution has to prove only the physical elements of the offence.

Disqualification

21 The Bill will introduce new provisions to disqualify the person from holding the same type of licence for a specified period not exceeding 3 years when the person's previous licence has been revoked.⁵ The person will also not be allowed to take on a new managerial role and directing the operation at another licensable food business of the same licence type during the period of disqualification.

22 Further, an associate of a disqualified person will also have that association taken into consideration when SFA assesses whether a licence should be granted to the associate. A disqualified person should not be allowed to circumvent his/her disqualification by making use of their associates.

Traceability Obligations⁶

23 A robust traceability system along the food supply chain is necessary for a swift response to recall food in the event of any food safety incident. SFA currently does not mandate the implementation of a traceability system, nor prescribe the specific requirements of the traceability system e.g. the type of records that should be kept to trace imported, manufactured and supplied food products.

24 The Bill will have new provisions to require prescribed licensable food businesses to keep records relating to the food manufactured or supplied (including pre-packed food additives for retail sale). Information to be kept includes data to identify, locate and trace (i) incoming ingredients or products (one step back); and (ii) where the outgoing products are distributed (one step forward), unless the transaction is to final consumers.

25 The Bill will also have new provisions to require such prescribed licensable food businesses to: (i) provide records within 24 hours when requested, and (ii) complete recalls of

⁴ In order to secure a conviction for both "strict liability" and "knowingly" offences, the prosecution must prove the offence beyond reasonable doubt. This is the standard of proof for every criminal offence in Singapore. In respect of a "strict liability" offence, the prosecution only needs to prove the physical element(s) of the offence. In contrast, for a "knowingly" offence, the prosecution must take an additional step of proving the requisite mental element i.e., he committed the offence knowingly (via a confession) or he ought reasonably to know (via circumstantial evidence) at the time of the commission of the offence.

⁵ The disqualification framework will also be applied to Temporary Fairs even as these remain regulated under the EPHA. There are no other changes to the regulatory regime for Temporary Fairs.

⁶ There are similar provisions to introduce traceability obligations for SFA-licensed importers of import-controlled items and SFA-licensed producers of animal feed. These will be covered in the respective parts of this series of consultations.

food or food products within the timeframe as directed by SFA (e.g., within 48 hours). If a licensable food business initiates a voluntary recall on the grounds that the food might be unsafe or unsuitable, it must also notify SFA within 24 hours. Further, to strengthen the robustness of processes, the Bill will have provisions for SFA to work with industry to conduct simulations to test recall procedures when required.

26 The above-mentioned provisions will enable food products with food safety concerns to be removed from the market promptly to protect the consumers. SFA will engage and inform relevant licensees before implementing these requirements.

Monitoring and Enforcement

27 Accompanying the new regulatory framework above, the Bill will also include clear and proportionate powers for authorised personnel to monitor, investigate and enforce against non-compliances. This includes the power to enter premises at a reasonable time in order to (i) observe activities within the premises, (ii) record the observations in physical (e.g., a sketch or report) or digital forms (e.g., a photograph or video) or (iii) require the provision of documents, samples, or information. There will be no forced entry into private residences. The authorised personnel will also be empowered to detain or seize materials if he or she reasonably believes the material is relevant to any offences being committed. Obstructing these authorised personnel in the discharge of their duties will be an offence.

28 To supplement internal resources for monitoring and enforcement purposes, the Bill will enable SFA to work on a whole-of-Government basis and appoint officers from other public sector agencies as well as trained individuals from the private sector. Their powers will be scoped to be commensurate with their expected roles and ensure that there is no overreach. If there are arrestable offences, SFA will call on the assistance of the Singapore Police Force (SPF).

Appeals

29 The FSSB will include an appeal mechanism to the Minister of Sustainability and the Environment, against discretionary decisions made by SFA, Director-General (Food Administration) or Director-General (Food Security). This would allow businesses and individuals aggrieved by the decisions to ask the Minister, as an independent authority, to re-assess the merits of the decision taken.

30 In deciding on an appeal, the Minister can confirm or revoke the decision appealed against. Minister can also substitute or vary the decision appealed against, except when the decision is a direction issued by the Director-General (Food Administration) in his / her capacity as a technical expert (see para 31). The Minister's decision on appeal (including a substituted decision) will be final.

31 To ensure consumer safety and safeguard national security interests, a fixed list of directions issued by the Director General (Food Administration) where compliance is required

on an immediate basis, will be non-appealable.⁷ These are time-limited measures (lasting only 10 days) to prevent or reduce serious danger to public health or imminent risk of death or serious illness, or a significant threat to supply sources of food for the general public.

32 The proposed provisions will streamline existing provisions across the eight existing Acts, strengthen the suite of regulatory tools, and provide clarity on: (i) the classes of food businesses that require a SFA licence, and (ii) the actions SFA can take in administering the licences, including for the initiating of regulatory action or enforcement against non-compliances.

33 SFA would like to assure food businesses that any new requirements will be implemented progressively and in close consultation with food businesses.

Request for Comments

34 SFA invites feedback and comments on the proposed provisions. Please refer to the explanatory notes as well as the draft provisions of Parts 4, 7, 8, 12 and 13 in **Annex I**.

35 All submissions should be clearly and concisely written. They should provide a reasoned explanation for any proposed revisions. Please submit your feedback at <https://go.gov.sg/fssb-reach-part4>. Alternative, please send in your feedback to fssb_engagement@sfa.gov.sg using the template in **Annex II**.

⁷ The list of non-appealable directions are (i) prohibition on supply of food or primary produce, (ii) recall of food; (iii) prohibition on movement of live animals into or out of affected premises to prevent spread of animal disease; and (iv) stopping supply of unwholesome drinking water and immediate remedial measures.