

Chapter:	132AC	Frozen Confections Regulation	Gazette Number	Version Date
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		Empowering section	E.R. 2 of 2014	10/04/2014
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Frozen Confections Regulation

(78 of 1999 s. 7)

(Cap 132, section 56)

[11 November 1960] *G.N.A. 132 of 1960*

(Originally G.N.A. 105 of 1960)

(*Format changes—E.R. 2 of 2014)

Note:

* The format of the whole Regulation has been updated to the current legislative styles.

Part:	1	Preliminary	E.R. 2 of 2014	10/04/2014
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Section:	1	(Repealed 78 of 1999 s. 7)	L.N. 320 of 1999	01/01/2000
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Section:	2	(Repealed 78 of 1999 s. 7)	L.N. 320 of 1999	01/01/2000
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Section:	3	Interpretation	E.R. 2 of 2014	10/04/2014
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In this Regulation, unless the context otherwise requires- (78 of 1999 s. 7)

Director (署長) means the Director of Food and Environmental Hygiene; (78 of 1999 s. 7)

disease (疾病) means any disease of a communicable nature;

food business (食物業) has the meaning assigned thereto in the Food Business Regulation (Cap 132 sub. leg. X); (10 of 1986 s. 32(2); 78 of 1999 s. 7)

frozen confection (水凍甜點) means any confection commonly sold for human consumption in a frozen or chilled state;

full licence (正式牌照) means a licence granted under section 19; (L.N. 357 of 1998; 78 of 1999 s. 7)

heat-treatment (熱處理) means the processing of frozen confections in the manner described in Schedule 1, and the expression **to heat-treat** (進行熱處理) shall be construed accordingly;

ingredient (配料), when used in relation to heat-treatment, includes sugar and dried egg, but does not include colouring or flavouring materials or fruit, nuts, chocolate and other similar substances; (26 of 2012 s. 69)

licence (牌照) means a full licence or a provisional licence; (L.N. 357 of 1998)

licensee (持牌人) means a person to whom a licence has been granted; (L.N. 357 of 1998)

manufacture (製造), in relation to frozen confections, includes the mixing of any ingredients, any process of freezing and any process whereby any frozen or partly frozen substance is inserted into containers or is wrapped for sale;

provisional licence (暫准牌照) means a licence granted under section 19A. (L.N. 357 of 1998; 78 of 1999 s. 7)

(78 of 1999 s. 7; E.R. 2 of 2014)

Section:	4	Amendment of Schedule 1	E.R. 2 of 2014	10/04/2014
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The Director may from time to time by notification published in the Gazette amend Schedule 1.

(78 of 1999 s. 7; E.R. 2 of 2014)

Part:	2	Sale of Frozen Confections	E.R. 2 of 2014	10/04/2014
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Section:	5	Permits or licences to sell frozen confections	E.R. 2 of 2014	10/04/2014
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A person must not sell, or offer or expose for sale, for human consumption, or possess for sale for human consumption, any frozen confection except under and in accordance with-

- (a) the permission in writing of the Director granted under section 30 of the Food Business Regulation (Cap 132 sub. leg. X); or
- (b) a composite food shop licence within the meaning of that Regulation.

(L.N. 58 of 2010)

Section:	6	Bacteriological standard of frozen confections for sale	E.R. 2 of 2014	10/04/2014
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No person shall sell, or offer or expose for sale, any frozen confection which contains more than 50000 bacteria per gram or more than 100 coliform bacteria per gram.

(L.N. 252 of 1986; 26 of 2012 s. 50)

Section:	7	Restriction on sale, etc. of imported frozen confections	E.R. 2 of 2014	10/04/2014
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- (1) No person shall sell, or offer or expose for sale, or advertise for sale, any frozen confection imported into Hong Kong from a source of manufacture other than a source of manufacture which has been approved by the Director. (10 of 1986 s. 32(2))
- (2) For the purposes of this section, the Director shall not approve any source of manufacture of frozen confections unless he is satisfied that heat-treatment is included in the process of manufacture of such frozen confections.
- (3) In any proceedings for an offence under subsection (1) in relation to the publication of an advertisement, it shall be a defence for a defendant to prove that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement for publication in the ordinary course of business.

(78 of 1999 s. 7)

Section:	8	Frozen confections to be heat-treated before sale	E.R. 2 of 2014	10/04/2014
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No person shall sell, or offer or expose for sale, for human consumption, or have in his possession for sale for human consumption, any frozen confection, other than red bean sherbet (紅荳冰) or red bean popsicle (紅荳雪條), which has not been heat-treated:

Provided that nothing in this section shall be construed to prevent the sale, or offer or exposing for sale, of any frozen confection imported into Hong Kong from a source of manufacture which has been approved by the Director.

(10 of 1986 s. 32(2); 78 of 1999 s. 7)

Section:	9	Precautions against contamination of frozen confections	E.R. 2 of 2014	10/04/2014
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Every person in possession for the purpose of sale for human consumption of any frozen confection shall take all reasonable and proper precautions to prevent infection or contamination thereof.

Section:	10	Frozen confections other than soft ice cream to be kept below -2 degrees Celsius	E.R. 2 of 2014	10/04/2014
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No person shall keep any frozen confection intended for sale for human consumption, other than ice cream of the kind commonly known as soft ice cream, in any place the temperature of which exceeds -2 degrees Celsius.

(L.N. 132 of 1970)

Section:	11	Frozen confections not to be stored with other articles	E.R. 2 of 2014	10/04/2014
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No person shall, in the course of any food business, keep any frozen confections in storage in any refrigerating device which is used for the storage of other articles.

Section:	12	Maintenance of refrigerators	E.R. 2 of 2014	10/04/2014
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Every refrigerating device used in the course of any food business for the storage of frozen confections shall, at all times, be kept in a clean condition and maintained in good order and repair.

Section:	13	Cleanliness of utensils	E.R. 2 of 2014	10/04/2014
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Every utensil used in the course of any food business for the purpose of serving or handling any frozen confection shall be kept clean and, so far as may be, free from any risk of contamination.

Section:	14	Storage of ice cream cones and wafers	E.R. 2 of 2014	10/04/2014
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Every cone or wafer used, or intended to be used, in any food business for the service of frozen confections shall, when not actually in use or about to be used, be kept in a dust proof container.

Section:	15	Frozen confections not to be sold except in the manufacturer's containers	E.R. 2 of 2014	10/04/2014
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- (1) A person must not sell, or offer or expose for sale, for human consumption any frozen confection except in, or directly from, the container into which it was inserted on the completion of its manufacture. (L.N. 58 of 2010)
 - (2) Subsection (1) does not apply in respect of-
 - (a) any frozen confection which is sold on any premises for human consumption on those premises in respect of which a licence has been granted under section 31 of the Food Business Regulation (Cap 132 sub. leg. X); or
 - (b) any frozen confection the sale of which is carried on under and in accordance with a composite food shop licence within the meaning of that Regulation. (L.N. 58 of 2010)
- (10 of 1986 s. 32(2))

Section:	16	(Repealed 78 of 1999 s. 7)	L.N. 320 of 1999	01/01/2000
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Part:	3	Manufacture of Frozen Confections	E.R. 2 of 2014	10/04/2014
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Section:	17	Frozen confections not to be manufactured except under licence	E.R. 2 of 2014	10/04/2014
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- (1) Except under and in accordance with a licence granted by the Director and in the premises that are specified in the licence, a person must not manufacture any frozen confection or cause any frozen confection to be manufactured.
- (2) Subsection (1) does not apply in respect of-
 - (a) any frozen confection which is manufactured on any premises for human consumption on those premises in respect of which a licence has been granted under section 31 of the Food Business Regulation (Cap 132 sub. leg. X); or
 - (b) any frozen confection the manufacture of which is carried on under and in accordance with a composite

food shop licence within the meaning of that Regulation.

(L.N. 58 of 2010)

Section:	18	Application for licence	E.R. 2 of 2014	10/04/2014
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- (1) Every application for any licence shall be made in writing, addressed to the Director, and, subject to subsection (2), shall be accompanied by 3 copies of a plan, as nearly as may be to scale, of the whole of that part of any premises in which the applicant intends to manufacture any frozen confection, and such plan shall include particulars of the following- (L.N. 357 of 1998)
- (a) sanitary fitments and ablution facilities;
 - (b) built in clothing lockers or cloakrooms, passageways or open spaces (if any);
 - (c) rooms or other spaces (if any) for the exclusive use of staff or employees;
 - (d) all means of exit, entry and internal communication;
 - (e) all windows or ducts providing ventilation or, where any mechanical means of ventilation is provided, such means;
 - (f) the siting of all furniture and fittings of a substantial and permanent nature, including heat-treatment plant, cleansing, refrigeration or cooling equipment, sterilization machinery or storage and packing equipment, and any fixed sideboards, washbasins or sinks, water tanks or other like articles;
 - (g) means of refuse storage or disposal; and
 - (h) the drainage system, including all inlets into the system.
- (2) In the case of any premises in which the only process of manufacture to be carried on is the freezing or part freezing of already prepared ingredients of frozen confections and the insertion thereof into containers at such premises for the purpose of sale for immediate consumption, it shall be sufficient compliance with subsection (1) if the plan shows the siting, in relation to neighbouring articles of furniture, fittings or equipment, of the machinery used for such freezing or part freezing or such insertion or wrapping.
- (3) Every copy of such plan, or any modification thereof, which is approved by the Director shall be endorsed to that effect by the Director, and 1 copy shall be returned to the applicant and the remaining 2 copies shall be retained by the Director.

(78 of 1999 s. 7)

Section:	19	Full licence	E.R. 2 of 2014	10/04/2014
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- (1) Subject to subsection (2), the Director may, on application made in respect of any premises, grant a full licence permitting any person to manufacture any frozen confection or cause any frozen confection to be manufactured where the applicant satisfies the Director that the following conditions have been satisfied in relation to the premises- (L.N. 357 of 1998)
- (a) the plan referred to in section 18 has been approved by the Director and that the premises conform thereto;
 - (b) the means of ventilation which is provided, whether natural or mechanical or partly natural and partly mechanical, is sufficient in every part of the premises, other than any part exclusively used for storage, to safeguard the health in that respect of the maximum number of persons likely to be engaged therein at any one time;
 - (c) sanitary fitments are provided to a standard not less than that required by regulation 5 of the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap 123 sub. leg. I);
 - (d) public mains water is laid on to the premises and a storage tank is provided for such water which is of sufficient size, having regard to the daily quantity of water likely to be used upon the premises, and proof against access of dust and mosquitoes:
Provided that, where the Director is satisfied that public mains water cannot reasonably be laid on for all or any purposes, the Director may in his discretion approve such other water supply as, having regard to considerations of public health, he may consider adequate;
 - (e) in every part of the premises in which any frozen confection is manufactured- (L.N. 58 of 2010)
 - (i) the floors are surfaced with smooth, light coloured and non-absorbent material;
 - (ii) the internal surfaces of the walls are surfaced with smooth and non-absorbent material up to a height of not less than 2 m and the junctions between the walls and floors are coved; and
 - (iii) the ceilings are impervious to dust; (L.N. 58 of 2010)

- (f) sufficient ablution facilities are provided for the use of persons employed therein, and that such ablution facilities are conveniently situated having regard to the nature of the work of such persons;
 - (g) sufficient and suitable cloakroom or locker accommodation, situated otherwise than in any part of the premises in which any frozen confection is manufactured or stored, is provided for the reception of outer garments and other personal effects of persons employed therein;
 - (h) no fresh air intake to any ventilation pipe included in the soil drainage system of the premises is situated in any part of the premises in which any frozen confection is manufactured, and every inlet into any such system which is situated in any such part of the premises is trapped; (L.N. 357 of 1998)
 - (ha) no part of the premises in which any frozen confection is manufactured or stored contains a soil fitment or latrine fitment or communicates directly with a room or other place which contains a soil fitment or latrine fitment; (78 of 1999 s. 7)
 - (i) any plant or apparatus used for the heat-treatment of any mixture in the manufacturing of frozen confection is of a type approved by the Director; and (L.N. 357 of 1998)
 - (j) any requirements issued by the Director of Fire Services have been complied with. (L.N. 357 of 1998)
- (2) In the case of any premises in which the only process of manufacture to be carried on is the freezing or part freezing of already prepared ingredients of frozen confections and the insertion thereof into containers at such premises for the purpose of sale for immediate consumption, it shall be sufficient compliance with the provisions of subsection (1) if the plan referred to in section 18 has been approved by the Director.
- (3) A full licence shall be valid for a period of 12 months from and including the date of its grant. (L.N. 357 of 1998)

(78 of 1999 s. 7)

Section:	19A	Provisional licence	E.R. 2 of 2014	10/04/2014
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- (1) The Director may, on application made in respect of any premises, grant a provisional licence permitting any person to manufacture any frozen confection or cause any frozen confection to be manufactured where the applicant satisfies the Director that the conditions mentioned in section 19(1)(b) to (j) have been satisfied in relation to the premises.
- (2) The Director shall not consider an application for a provisional licence unless the applicant has applied for a full licence in respect of the same premises.
- (3) Subject to subsection (6), a provisional licence shall be valid for a period of 6 months from and including the date of its grant.
- (4) A provisional licence may be renewed on only one occasion at the absolute discretion of the Director.
- (5) Subject to subsection (6), a provisional licence that is renewed under subsection (4) shall be valid for a period of 6 months from and including the date of its renewal or such lesser period as may be specified in the provisional licence.
- (6) If a full licence is granted during the validity of a provisional licence, the provisional licence shall expire upon the grant of the full licence. The fee paid in respect of the provisional licence shall be refunded on a pro-rata basis by reference to the number of days of the remaining part of the validity period of the provisional licence. Any fraction of \$1 in the refund shall count as \$1.

(L.N. 357 of 1998; 78 of 1999 s. 7)

Section:	20	Restriction on alterations or additions to licensed premises	E.R. 2 of 2014	10/04/2014
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After the grant of any licence, no licensee shall, save with the permission in writing of the Director, cause or permit to be made in respect of the premises to which the licence relates- (L.N. 357 of 1998)

- (a) any alteration or addition which would result in a material deviation from the plan thereof approved under section 18; or
- (b) any material alteration in respect of any of the matters specified in section 18(1) as matters in respect of which particulars must be included in the plan delivered pursuant to that subsection.

(78 of 1999 s. 7)

Section:	20A	Transfer of licence	E.R. 2 of 2014	10/04/2014
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Save with the consent in writing of the Director, a person to whom a licence is granted under this Part shall not

transfer his licence to any other person.

(L.N. 357 of 1998; 78 of 1999 s. 7)

Section:	21	Requirements as to heat-treatment apparatus	E.R. 2 of 2014	10/04/2014
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- (1) Every such licensee shall cause any plant or apparatus used by him for the heat-treatment of the mixture from which any frozen confection is being manufactured to be equipped with one or more self-registering thermometer devices to indicate and record the temperature to which, and the length of time during which, the frozen confection has been heated.
- (2) The licensee shall not subject any mixture to heat-treatment unless the apparatus used is of a type approved by the Director. (L.N. 103 of 1965)
- (3) Every thermometer reading taken in pursuance of subsection (1) shall be recorded and the record retained by the licensee for not less than 2 months, and shall be available for inspection at all reasonable times by any health officer or health inspector.

(78 of 1999 s. 7)

Section:	22	Handling of frozen confections	E.R. 2 of 2014	10/04/2014
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No person engaged in the manufacture of any frozen confection shall allow, or cause or permit any other person to allow, the confection or any of the ingredients thereof to come into contact with his hands or any other part of his body.

Section:	23	Control of contents of frozen confections	E.R. 2 of 2014	10/04/2014
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No person shall use for the purpose of manufacturing any frozen confection-

- (a) save with the permission in writing of the Director, any water other than public mains water; (78 of 1999 s. 7)
- (b) any flavouring substance unless of a kind harmless to human beings;
- (c) any fruit, nuts or chocolate, or preparations derived therefrom, which are not of good quality, clean and free from taint or rancidity;
- (d) any colouring matter which is not a permitted colouring matter within the meaning of the Colouring Matter in Food Regulations (Cap 132 sub. leg. H).

(E.R. 2 of 2014)

Section:	24	General cleanliness of premises and equipment	E.R. 2 of 2014	10/04/2014
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Every such licensee shall, at all times, cause all parts of the premises to which the licence relates, and all fittings and equipment therein, to be maintained in proper repair and in a clean condition and free from noxious matters, and shall cause the floor of every part of such premises which is used for any process in connection with the manufacture of frozen confections to be thoroughly cleansed with water not less than once in every 24 hours.

Section:	25	Sterilization of vessels and utensils	E.R. 2 of 2014	10/04/2014
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- (1) No such licensee shall cause any vessel, container or utensil to be used in any process in connexion with the manufacture, storage or distribution of frozen confections unless it has been thoroughly cleansed and subsequently sterilized with steam or clean boiling water, or by such other method as the Director may permit in writing either generally or in any particular case, since the last occasion upon which it was used or before it is first used, as the case may be:
 Provided that nothing in this subsection shall be construed to require any such vessel, container or utensil to be so cleansed or sterilized during any period in which it is in continuous or nearly continuous use.
- (2) All parts of any heat-treatment machinery shall, at all times, be kept in a clean condition, and every part thereof which is liable to come into contact with any frozen confection during heat-treatment shall, as often as may be

necessary, be washed with clean water or a suitable detergent (in which case it shall be rinsed with clean water after it has been washed with the detergent), and then sterilized with steam or boiling water or by such other method as the Director may permit in writing either generally or in any particular case.

(78 of 1999 s. 7)

Section:	26	Restriction on smoking	E.R. 2 of 2014	10/04/2014
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No person shall smoke while engaged in any process in connection with the manufacture of frozen confections or in the sale of frozen confections, except such confections as are sold in containers or wrappers and so enclosed as to exclude all risk of contamination.

Section:	27	Frozen confection factories not to be used for dwelling purposes	E.R. 2 of 2014	10/04/2014
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No person shall use, or suffer any other person to use, for dwelling purposes any part of any premises in which any process in connection with the manufacture of frozen confections is carried on.

Section:	28	Prevention of contamination of frozen confections by contact with certain clothing	E.R. 2 of 2014	10/04/2014
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No person shall hang up, or otherwise keep, or suffer any other person to hang up or otherwise keep, whether temporarily or permanently, any clothing, bedding or personal effects in any part of any premises in which any process in connection with the manufacture of frozen confections is carried on.

Section:	29	Spitting	E.R. 2 of 2014	10/04/2014
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- (1) In any premises in which the manufacture of frozen confections is carried on-
 - (a) no person shall spit in any part of such premises in which any process in connection with the manufacture of such confections is carried on; and
 - (b) no person shall spit in any other part of such premises except into a spittoon or other receptacle provided for the purpose.
- (2) Where spittoons or other receptacles are provided, the licensee shall cause each such spittoon or receptacle to contain a disinfectant fluid and to be cleansed, and the fluid renewed, not less than once in every 24 hours.
- (3) Save with the permission in writing of the Director, every such licensee shall cause one or more notices, prohibiting spitting and written in English and Chinese, to be continuously displayed in a conspicuous manner in every part of the premises in which any process in connexion with the manufacture of frozen confections is carried on. (78 of 1999 s. 7)

Section:	30	Prevention of vermin	E.R. 2 of 2014	10/04/2014
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- (1) Save where exempted in writing by the Director, every such licensee shall cause every hollow space, crevice or other place in any premises used by him for the manufacture or storage of frozen confections, which is likely to harbour vermin or to constitute a means of access for vermin, to be eliminated or sealed off. (78 of 1999 s. 7)
- (2) No person shall place, or suffer to be placed or to remain placed, any furniture or equipment, other than such as may be moved without difficulty by one man, so near to any wall of any premises in which frozen confections are manufactured as to obstruct access to any part of such wall, or such furniture or equipment, for the purpose of the cleaning of the same.
- (3) No person shall knowingly suffer the existence of any vermin in any part of any premises in which frozen confections are manufactured.

Section:	31	Yards, alleys, etc. not to be used for manufacturing frozen confections	E.R. 2 of 2014	10/04/2014
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No person shall use, or suffer to be used, any yard, alley, open space or roof top for manufacturing or storing frozen confections.

Section:	32	Cleansing of water tanks	E.R. 2 of 2014	10/04/2014
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- (1) Every such licensee shall-
 - (a) cause the inside of every water tank or container provided for the storage of water on any premises used by him for manufacturing frozen confections to be cleansed in the months of March, June, September and December in each year by scrubbing out the same with a solution of not less than fifty parts of chlorine in one million parts of water; and
 - (b) cause the date upon which such cleansing was last carried out to be recorded in a conspicuous manner upon each such water tank or container.
- (2) Without prejudice to the provisions of subsection (1), any health officer or health inspector may serve upon such licensee a notice requiring him to cause any such water tank or container to be cleansed in such manner and within such time as may be specified in the notice. (78 of 1999 s. 7)

Section:	33	General precautions against contamination of frozen confections	E.R. 2 of 2014	10/04/2014
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Without prejudice to anything contained in this Regulation, every such licensee shall take all reasonable and proper precautions in and in connexion with the manufacture of frozen confections, including the distribution or other handling thereof, to prevent contamination.

(78 of 1999 s. 7)

Section:	34	Soft ice cream containers to be marked with of manufacture of ice cream therein	E.R. 2 of 2014	10/04/2014
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Every person who has manufactured any ice cream of the kind commonly known as soft ice cream shall mark, or cause to be marked, each container in which the same is stored by him with the date on which the same was manufactured and the time at which the manufacture thereof was completed.

Part:	4	Miscellaneous	E.R. 2 of 2014	10/04/2014
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Section:	35	Restriction on employment of persons likely to spread disease	E.R. 2 of 2014	10/04/2014
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- (1) No person suffering from a discharging wound or sore or from a discharge of the ear or from attacks of vomiting or diarrhoea or from a sore throat shall take any part in the manufacture or handling of any frozen confection in any food business:
Provided that a health officer may issue a certificate to any such person exempting him from this subsection in any case in which such health officer is satisfied that no danger to the public health is involved.
- (2) Any person who is employed or working in any food business involving the manufacture or handling of frozen confections, shall, if so required in writing by a health officer, submit himself to medical examination at such time and at such place as such health officer may direct and, if after such medical examination, a health officer is satisfied that such person is suffering from any communicable disease, or is likely to communicate to any other person any communicable disease, such last mentioned health officer may notify such person in writing to that effect, and such person shall forthwith cease to be employed or to work in such food business or in any other such food business.
- (3) A notification given under subsection (2) shall continue in force until it is cancelled by a further notice in writing by a health officer declaring such first mentioned notice to be cancelled.

- (4) No person shall cause, or suffer or permit, any person, other than a person who has been duly exempted from the provisions of subsection (1), whom he knows or has reason to believe to be suffering from any of the complaints specified in that subsection, to be employed or work in any food business involving the manufacture or handling of frozen confections.
- (5) No person shall cause, or suffer or permit, any person in respect of whom he knows or has reason to believe that a notice given under subsection (2) is in force to be so employed or so to work.

(78 of 1999 s. 7)

Section:	36	Immunization of staff against certain diseases	E.R. 2 of 2014	10/04/2014
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- (1) No person shall be employed or work in any food business involving the manufacture or handling of frozen confections unless he has been immunized in accordance with such of the requirements of a notification under subsection (2) as apply to him. (L.N. 229 of 1982)
- (2) The Director may from time to time by notification published in the Gazette require persons employed or working in any food business involving the manufacture or handling of frozen confections to be immunized against such diseases as may be specified in such notification. (L.N. 229 of 1982)
- (3) No person shall employ in any food business involving the manufacture or handling of frozen confections any person who he knows or has reason to believe has not been immunized in accordance with subsection (1) or a notification under subsection (2). (L.N. 164 of 1978)

(78 of 1999 s. 7)

Section:	37	General personal cleanliness	E.R. 2 of 2014	10/04/2014
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Without prejudice to anything contained in this Regulation, every person who, for the purposes of any food business, takes any part in the manufacture or handling of frozen confections shall, while so taking part- (78 of 1999 s. 7)

- (a) keep all parts of his person and of his outer garments as clean as may be reasonably practicable; and
- (b) keep any open cut or abrasion on any exposed part of his person covered with a suitable waterproof dressing.

Section:	38	Prevention of supply of frozen confections to the danger of public health	E.R. 2 of 2014	10/04/2014
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- (1) If any health officer or health inspector is of the opinion that infectious or other disease is caused, or is likely to be caused, by the consumption of frozen confections derived from any particular source, premises or manufacturing plant or that the public health is likely to be endangered by the act or default of any purveyor of frozen confections or his servants or agents, such health officer or health inspector may, by notice in writing, direct that the supply, distribution or sale of such frozen confections shall be terminated or restricted for such period and subject to such conditions as may be specified in the direction.
- (2) Any person who considers himself aggrieved by any direction given under subsection (1) may, within 14 days after the giving of the same, appeal to the Municipal Services Appeals Board. (58 of 1990 s. 22; 78 of 1999 s. 7)
- (3) In any case in which the Municipal Services Appeals Board is satisfied that the direction ought not to have been given, it may order payment to the appellant by way of compensation of such sum, if any, as, having regard to all the circumstances, it may consider just. (58 of 1990 s. 22; 78 of 1999 s. 7)
- (4) Every such payment shall be made out of the general revenue of Hong Kong. (10 of 1986 s. 32(2))

Section:	39	Keeping of report books	E.R. 2 of 2014	10/04/2014
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- (1) The Director may provide, for use in any food business involving the manufacture or sale of frozen confections, a report book or form for the use of health officers and health inspectors visiting the premises. (78 of 1999 s. 7)
- (2) Where any such book or form has been provided, the licensee or proprietor, as the case may be, of such business shall, at all times, cause such book or form to be kept in such a place as to be immediately available for use by any such health officer or health inspector.
- (3) No person shall destroy any such book or form or alter or obliterate any entry made therein.

Section:	40	Fees and duplicate licence	E.R. 2 of 2014	10/04/2014
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- (1) (Repealed L.N. 357 of 1998)
- (2) The fee for the grant or renewal of a full licence is the prescribed fee.
- (2A) Subject to section 19A(6), the fee for the grant or renewal of a provisional licence shall be the prescribed fee. (L.N. 357 of 1998; L.N. 86 of 2013)
- (3) If the Director is satisfied that any licence granted to any person-
- (a) has been lost, destroyed or accidentally defaced; or
 - (b) requires amendment,
- the Director may, upon payment of the prescribed fee, issue to such person a duplicate of the licence or make the amendment, as the case may be. (L.N. 70 of 1992)
- (L.N. 153 of 1991; L.N. 347 of 1996; L.N. 357 of 1998; 78 of 1999 s. 7)

Section:	41	Offences and penalties	E.R. 2 of 2014	10/04/2014
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- (1) A person commits an offence who- (L.N. 164 of 1978)
- (a) contravenes any of the provisions of section 5, 6, 7(1), 8, 9, 10, 11, 12, 13, 14, 15(1), 17(1), 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32(1), 33, 34, 35(1), (4) or (5), 36(1) or (3), 37 or 39(2) or (3); (L.N. 347 of 1996)
 - (b) fails to comply with any of the requirements of a notice served upon him under section 32(2);
 - (c) being a person employed or working in any food business involving the manufacture or handling of frozen confections, fails-
 - (i) to submit himself to medical examination when required to do so under section 35(2); or
 - (ii) to cease to be employed or to work in any such business when required to do so by that subsection;
 - (d) fails to comply with any of the requirements of a notification published in the Gazette under section 36(2);
 - (e) fails to comply with any direction given under section 38(1), unless the same has been varied or cancelled by the Municipal Services Appeals Board under subsection (2) of that section; or (10 of 2005 s. 227)
 - (f) where any direction given under section 38(1) has been varied by the Municipal Services Appeals Board under subsection (2) of that section, fails to comply with such direction as so varied. (L.N. 164 of 1978; 10 of 2005 s. 227)
- (2) A person who is guilty of an offence under this Regulation shall be liable on summary conviction to a fine and imprisonment as follows and, where the offence is a continuing offence, to an additional fine as follows for each day during which it is proved to the satisfaction of the court that the offence has continued-
- (a) in the case of an offence under section 5 or 17(1) a fine at level 5, imprisonment for 6 months and \$900 for each day as aforesaid; and (L.N. 292 of 1987; L.N.177 of 1996)
 - (b) in the case of any other offence mentioned in subsection (1) a fine at level 3, imprisonment for 3 months and \$300 for each day as aforesaid. (L.N. 164 of 1978; L.N. 292 of 1987; L.N. 177 of 1996)
- (78 of 1999 s. 7; L.N. 58 of 2010)

Section:	42	Name in which proceedings for offences may be brought	E.R. 2 of 2014	10/04/2014
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Without prejudice to the provisions of any other enactment relating to the prosecution of criminal offences and without prejudice to the powers of the Secretary for Justice in relation to the prosecution of such offences, prosecutions for an offence under any of the provisions of this Regulation may be brought in the name of the Director.

(L.N. 362 of 1997; 78 of 1999 s. 7)

Schedule:	1	Heat-treatment	E.R. 2 of 2014	10/04/2014
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[sections 3 & 4]
(78 of 1999 s. 7)

The following provisions shall apply to the heat-treatment of frozen confections after the mixing together of the ingredients-

- (1) The mixture shall not be kept for any period exceeding 1 hour at a temperature greater than 7 degrees Celsius before such mixture is subjected to heat-treatment by one of the following methods-
 - (a) the mixture shall be raised to and kept at a temperature of not less than 66 degrees Celsius for not less than 30 minutes; or
 - (b) the mixture shall be raised to and kept at a temperature of not less than 71 degrees Celsius for not less than 10 minutes; or
 - (c) the mixture shall be raised to and kept at a temperature of not less than 79 degrees Celsius for not less than 15 seconds. (L.N. 132 of 1970)
- (2) After the mixture has been subjected to heat-treatment in any of the ways above described, it shall be reduced to a temperature of not more than 7 degrees Celsius within one and a half hours after the commencement of the reduction of temperature and shall be kept at a temperature lower than 7 degrees Celsius until frozen. (L.N. 132 of 1970)
- (3) Where the method described in paragraph (1)(c) is used for the heat treatment of any frozen confection, the apparatus employed shall be thermostatically controlled and shall be fitted with a positive displacement pump which shall serve to maintain the flow of the mixture, during its retention at the prescribed temperature, at an even rate and shall be equipped with an automatic device to divert the flow of any mixture which has not been retained at the requisite temperature for the requisite period of time. (L.N. 103 of 1965)

Schedule:	2	(Repealed L.N. 347 of 1996)	L.N. 320 of 1999	01/01/2000
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