

**For discussion  
on 23 April 2001**

## **LegCo Panel on Food Safety and Environmental Hygiene**

### **ITINERANT HAWKER LICENCE**

#### **PURPOSE**

This paper briefs Members on issues concerning itinerant hawker licences (IHL).

#### **BACKGROUND**

2. Street hawking creates serious environmental nuisances and environmental hygiene problems. The two former Municipal Councils' policy was to control the number of IHL by not issuing any new licence as well as prohibiting the transfer and succession of existing licences. In addition to this, the Urban Council introduced a compulsory deletion policy in March 1993 with a view to phasing out all IHL in the urban area within three years. Under this policy, IHL holders who surrendered their licences would receive an ex-gratia payment of \$30,000 or have a right to select a vacant fixed pitch or a dry good/vegetable/meat/poultry stall in public markets with concessionary rental arrangements. For a small group of IHL holders such as mobile van and frozen confectionery, they were offered the right to bid for a kiosk within leisure venues or a right to select a vacant cooked food stall with concessionary rental arrangement. Details of the various options are provided in **Annex A**. The Regional Council, on the other hand, did not adopt a compulsory deletion policy and rely on natural attrition to phase out the IHL. The Hawker (Urban Council) (Amendment) (No.3) Bylaw 1994, which aimed to implement the compulsory deletion policy, was enacted on 13 September 1994 but had not been brought into effect.

3. Since the promulgation of the compulsory deletion policy, a total of 2,844 IHL holders have voluntarily surrendered their licences. Majority of those who surrendered their licences chose to receive an ex-gratia payment. A breakdown of the options chosen by IHL holders is at **Annex B**.

## **PRESENT POSITION**

4. The above mentioned policy on IHL has not changed since the reorganisation of municipal services on 1 January 2000. As at 28 February 2001, there were 1,129 IHL holders, with 582 in the urban area and 547 in N.T. A breakdown of the IHL holders by age and licence type is at **Annex C**.

## **CONSIDERATIONS FOR THE WAY AHEAD**

5. In reviewing the future arrangement for IHL, particularly in deciding whether we should reinstate the compulsory deletion policy and to extend it further to the N.T., we need to take into account the following factors:

### ***(a) Environmental nuisances caused by on-street trading***

6. Hong Kong is a congested city with narrow pavements which are not suitable for on-street hawking. Although IHL holders are legally allowed to hawk in public places, they are prosecuted from time to time for causing obstructions. District staff of the Food and Environmental Hygiene Department (FEHD) also receive many complaints from residents nearby concerning the noise and environmental nuisances generated by these activities.

### ***(b) Enforcement problems***

7. IHL holders are not allowed to transfer their licences and should trade by themselves. However, there were cases where IHL holders “rent” their licences to unlicensed hawkers and “standing in” for them during raiding operations. This has posed many enforcement problems in hawker control operations.

### ***(c) Pace of natural attrition***

8. Since more than half of the IHL holders are over the age of 60, the pace of phasing out IHL by natural attrition is uncertain. We envisage that it may take as long as 20 years.

***(d) Offer of market stall at concessionary rate***

9. Over the years, only about 13% of former IHL holders chose to be resited into a vacant market stall. Under this arrangement, IHL holders usually take up prime stalls but are only required to pay the same amount of IHL fee as rent. The difference between the prevailing stall rental and the licence fee can be as much as 3000%. There were instances where IHL holders took advantage of the rental difference and rented out the stalls to outside parties, which is in breach of the tenancy agreement. Moreover, tenants who obtain similar market stalls through open auctions and are paying a rent at or close to prevailing market level have expressed strong view against such a favourable treatment to IHL holders.

10. An arrangement similar to the resiting of fixed pitch hawker into public markets may be made, i.e. IHL holders can bid for such stalls through restricted auctions with upset prices set at 75% of the open market rent in place of vacant stalls at concessionary rate. Moreover, IHL holders can also select a vacant fixed pitch if they wish to continue their business elsewhere.

***(e) Offer of a kiosk at concessionary rate***

11. Over the years, only 3 out of 2,844 former IHL holders (0.1%) chose to bid for a kiosk in leisure venues now managed by the Leisure and Cultural Services Department (LCSD). Since this option is not popular among IHL holders, there may not be a need to retain it.

***(f) Ex-gratia payment***

12. Over the years, 1,969 out of 2,844 (69%) former IHL holders chose this option. We believe that ex-gratia payment would continue to be the most attractive and effective means in reducing the IHL population within a relatively short period of time. But the amount may have to be reviewed.

***(g) IHL (Frozen Confectionery)***

13. There are 71 IHL (Frozen Confectionery) holders selling pre-packed ice-cream/soft drinks at sites such as entrance to major parks. Under the existing arrangement, any IHL holders, including the IHL (Frozen confectionery) holders can select a vacant fixed pitch to sell the commodities endorsed on the

licence if they surrender their licences. Their mode of operation is quite different from other classes of IHL holders in that they usually trade in the vicinity of pleasure venues and do not cause much obstruction. They also provide bins to collect rubbish and do not cause much environmental hygiene problems. For this reason, consideration can be given to allowing them to trade in-situ or at appropriate sites as fixed pitch licensed hawkers. In this connection, sufficient number of fixed pitch sites have been identified and we would work with the Transport Department (TD) to ensure that these fixed pitches do not cause obstructions.

***(h) IHL (Mobile Van)***

14. There are 16 IHL (Mobile Van) holders selling mainly soft ice-cream from pre-prepared mixture. 14 of them belong to the same company. This type of IHL were previously holding a Mobile Shop Licence for carrying on a modified frozen confection factory business. In view of their unique mode of operation which is quite different from other classes of IHL holders, consideration may be given to licensing them as a frozen confection factory under the Frozen Confections Regulation so that they can continue their business.

**ADVICE SOUGHT**

15. We would like to listen to Members' views on the issues outlined above before taking the matter further.

Food and Environmental Hygiene Department  
Environment and Food Bureau  
April 2001

**Existing package offered to IHL holders who surrender their licences**

- All IHL holders who voluntarily surrender their licences can choose any one of the following options:
  - ◆ to select a vacant fixed pitch in the urban area and be regarded as fixed pitch licensed hawker;
  - ◆ to select a vacant market mini-stall (e.g. dry goods stall or vegetable stall) and pay only the licence fee for IHL as rent for the first tenancy agreement;
  - ◆ to select a vacant market stall (e.g. fish / meat / poultry stall) and pay 50% open market rent (OMR) as rent for the first tenancy agreement; or
  - ◆ to receive an ex-gratia payment of \$30,000.
  
- In addition to the above, some special groups of IHL holders are given the following additional options:
  - ◆ For some 120 surveyed static IHL holders (UC conducted a general hawker survey in 1970 and registered those trading regularly at a fixed location as surveyed static IHL holders), where feasible and practicable, they can opt to be regarded as fixed pitch licensed hawkers and trade in-situ or in the immediate vicinity of their original sites. (There are only 8 surveyed static IHL holders as at 28.2.2001).
  - ◆ For IHL (Frozen Confectionery) holders and IHL (Mobile Van) holders, they can bid a purpose-built kiosk within leisure venues through restricted auctions with upset price set at 75% of OMR.
  - ◆ For IHL (Mobile Van) holders, they can select a vacant cooked food stall to sell ice-cream and dessert and pay 50% OMR as stall rental or select a vacant cooked food stall to sell cooked food and pay 75% OMR as stall rental for the first tenancy agreement.

## Options chosen by IHL holders (as at 28.2.2001)

| <b>Option</b>                            | <b>Number</b> |
|--|---------------|
| Regrading to fixed pitch licensed hawker | 433           |
| Taking a vacant market stall             | 358           |
| Taking a kiosk within leisure venue      | 3             |
| Taking the ex-gratia payment             | 1,969         |
| Licence expired without renewal          | 81            |
| Total                                    | 2,844         |

**Age Profile of IHL Holders**

| <b>AGE GROUP</b> | <b>Urban</b> |            | <b>N.T.</b> |            |
|------------------|--------------|------------|-------------|------------|
|                  | <b>No.</b>   | <b>%</b>   | <b>No.</b>  | <b>%</b>   |
| under 45         | 18           | 3          | 7           | 1          |
| 46-50            | 18           | 3          | 51          | 9          |
| 51-55            | 60           | 10         | 77          | 14         |
| 56-60            | 71           | 12         | 103         | 19         |
| 61-65            | 131          | 23         | 101         | 18         |
| 66-70            | 137          | 24         | 114         | 21         |
| 71-75            | 94           | 16         | 60          | 11         |
| 76-80            | 38           | 6          | 26          | 5          |
| 81-85            | 10           | 2          | 7           | 1          |
| over 86          | 5            | 1          | 1           | 1          |
| <b>Total</b>     | <b>582</b>   | <b>100</b> | <b>547</b>  | <b>100</b> |

**No. of IHL holders by licence type**

| Licence Type         | Number Issued |     | Total |
|----------------------|---------------|-----|-------|
|                      | Urban         | N.T |       |
| Mobile Van           | 10            | 6   | 16    |
| Frozen Confectionery | 58            | 13  | 71    |
| Other Classes        | 514           | 528 | 1,042 |
| Total                | 582           | 547 | 1,129 |