

For discussion on  
3 April 2001

## **LegCo Panel on Security**

### **Proposed Amendments to the Massage Establishments Ordinance**

#### **Purpose**

This paper seeks Members' views on the Administration's proposed amendments to the Massage Establishments Ordinance, Cap. 266 (the Ordinance).

#### **Summary of Proposals**

2. The Government has completed a review of the licensing scheme in respect of massage establishments and conducted a public consultation exercise on the proposed amendments, which include –

- narrowing down the scope of control of massage establishments to those premises offering full-body massage to members of the opposite sex; and
- allowing massage establishment licences to be renewed for two years if the licensing authority is satisfied that the licensee has not breached any licensing conditions during the preceding licensing period. (At present, a licence can only be renewed for one year.)

3. Subject to Members' views, the Administration plans to introduce an amendment bill into the Legislative Council to reflect the above legislative proposals.

## **Background**

4. The Massage Establishments Ordinance, Cap. 266 (the Ordinance) was enacted in 1983 with the primary aim to control vice activities in massage establishments through licensing. Under the Ordinance, massage establishments are defined as any place used for the reception or treatment of persons requiring massage services or similar treatment. However, it does not apply to massage treatment provided by hospitals, clinics, maternity homes or physiotherapy centres, or hair or beauty parlours where face or head massage is administered to female customers only or in full view of customers.

5. A massage establishment licence is valid for one year and may be renewed upon expiry. Under the Ordinance, the Commissioner of Police, as the licensing authority, may issue a massage establishment licence subject to the applicant satisfying certain prescribed conditions. The Police may also impose appropriate licensing conditions. Penalties are prescribed for breach of licensing conditions and the operation of an unlicensed massage establishment.

6. In February 1999, the Business and Services Promotion Unit commissioned a consultancy study to review the Ordinance and the related regulatory controls exercised by the Police. The study sought to ensure that the regulatory regime would be kept to the minimum necessary for preventing and combating vice activities in the most effective manner, while reducing inconvenience to legitimate business and minimising cost to both the industry and the Government.

7. As a result of the review, the Police have implemented a number of procedural or administrative changes to improve the licensing arrangements. These changes include streamlining the application procedures and shortening the time required for processing applications.

8. In addition, the consultant pointed out that the present scope of control is too wide, thus unnecessarily regulating establishments that do not appear to be prone to vice activities. This may inhibit the growth of the bona fide massage businesses.

9. In recent years, a myriad of massage services flourishes including foot massage, massage in spa, health clubs and beauty parlours. We have received a number of complaints from massage operators, especially foot massage operators, that the licensing control is

unnecessary and too stringent for them.

10. The primary objective of the licensing scheme is to combat vice activities in massage establishments. It is not the intention of the Administration to over-regulate bona fide massage businesses which promote health and relaxation.

## **Legislative Amendment Proposals**

### *Scope of licensing*

11. The Administration has carefully examined the recommendations made in the consultancy study. To strike a proper balance between the need to control vice activities and not inhibiting bona fide massage businesses, we propose to narrow down the scope of control of massage establishments. It is proposed that only massage establishments offering full-body massage by persons to customers of the opposite sex will be required to obtain a licence. Full-body massage is defined as massage treatment provided to a person covering that part of the body between the neck and the knees. In other words, should this proposal be adopted, those premises where only face, scalp, arms or feet massage is administered to the same / opposite sex, or where full-body massage is administered to the same sex, may operate without a massage establishment licence.

12. According to the enforcement experience of the Police, vice activities are not commonly found in foot massage establishments or spa and health clubs where full-body massage services are provided to customers by massage assistants of the same sex. The narrowing down of the scope of control would promote the development of these kinds of massage businesses which have demonstrated tremendous potential for growth due to greater demand by the increasingly health-conscious public.

13. As at February 2001, there are around 220 licensed massage establishments in Hong Kong. If the above proposal is implemented, approximately 33 currently licensed massage establishments will no longer be required to obtain licences for their business. Among these establishments, 6 are foot massage parlours and 27 are massage establishments found inside spa, health clubs and hotels.

14. Although we believe that these exempted establishments are less prone to vice activities, we cannot discard such a possibility completely. The Police will continue to act on complaints and take appropriate enforcement action should intelligence reveal that vice activities or other criminal activities take place in these establishments.

### *Licence Renewal*

15. Another proposal to facilitate massage business is to grant a licence for two years upon renewal, if considered appropriate by the Licensing Authority. The current licensing regime requires a licence to be renewed each year. As an incentive for massage establishment operators to abide by the licensing conditions, it is proposed that a renewal may be granted for an extended period of two years if, in the opinion of the Licensing Authority, the relevant licensee has not breached any licensing conditions during the preceding licensing period. However, should any adverse record be found, the licensing period will be reduced to one year upon the next renewal. In respect of licence fees, we are considering whether different fees may be charged for new issue and for renewal of a licence.

16. In this connection, the Administration is aware of the need to keep the administrative costs to the minimum necessary. We have conducted an exercise to streamline the application processing procedures. As a result, considerable improvements have been identified in terms of streamlining the process and shortening the time required. Some of these improvement measures have been successfully implemented. A costing exercise is being conducted to review the licence fees for massage establishments.

### **Public Consultation**

17. A public consultation exercise was conducted from 23 February to 22 March 2001 on the legislative proposals summarized in paragraph 2. The vast majority of comments received supports our proposed legislative amendments. In particular, the trade welcomes the proposal which may facilitate the development of some bona fide massage businesses by exempting them from licensing control. Some commentators have asked for further relaxation of the scope of control but we consider the proposed approach as striking the right balance

between providing appropriate regulation of the massage business and the need to combat vice activities that some of these premises may be susceptible to. Further relaxation is therefore not considered appropriate.

18. Furthermore, some sectors of the public may be concerned about a proliferation of vice activities in these exempted massage establishments. They may also be concerned about other nuisance caused, although the comments we received during the public consultation have not reflected this. To allay any such possible concerns, Police will continue to take appropriate enforcement actions against vice or other unlawful activities in massage establishments whether or not they are licensable under the proposed Bill.

### **Advice Sought**

19. Members are invited to advise on the legislative proposals explained above.

Security Bureau  
April 2000

[a: panel paper]